



Medford City Council Meeting

Agenda

March 2, 2017

12:00 Noon AND 7:00 P.M.

**Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon**

10. Roll Call

McLoughlin Middle School Students of the Month

20. Approval or Correction of the Minutes of the February 16, 2017 Regular Meeting

30. Oral Requests and Communications from the Audience

Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

40. Consent Calendar

50. Items Removed from Consent Calendar

60. Ordinances and Resolutions

60.1 COUNCIL BILL 2017-18 A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

60.2 COUNCIL BILL 2017-19 An ordinance amending section 9.415 of the Medford Municipal Code pertaining to selection of properties for receivership.

70. Council Business

80. City Manager and Other Staff Reports

80.1 Natural Hazards Mitigation Plan update – Larry Masterman

80.2 Bond rating upgrade – Alison Chan

80.3 Updated budget calendar – Alison Chan

80.4 Further reports from City Manager

90. Propositions and Remarks from the Mayor and Councilmembers

90.1 Proclamations issued: None

90.2 Further Council committee reports

90.3 Further remarks from Mayor and Councilmembers

100. Adjournment to the Evening Session

EVENING SESSION
7:00 P.M.

Roll Call

110. Oral Requests and Communications from the Audience

Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

120. Public Hearings

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 4 minutes. PLEASE SIGN IN.

120.1 Consider an appeal of the Planning Commission approval of a Conditional Use Permit for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district. CUP-16-139 (Land Use, Appeal)

130. Ordinances and Resolutions

140. Council Business

150. Further Reports from the City Manager and Staff

160. Propositions and Remarks from the Mayor and Councilmembers

160.1 Further Council committee reports

160.2 Further remarks from Mayor and Councilmembers

170. Adjournment



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.1

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: 541-774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: March 2, 2017

COUNCIL BILL 2017-18

A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

SUMMARY AND BACKGROUND

An appeal of the Public Works letter to Central Avenue Properties, LLC, informing them that the sidewalk fronting the property at 135-149 S. Central Avenue poses a safety hazard and needs to be repaired was considered by the City Council on February 18, 2016. The Council directed staff to present a resolution denying the appeal. The City Council subsequently held all sidewalk appeals in abeyance and tolled all applicable time periods for sidewalk appeals and directed staff to repair the sidewalks on Central Avenue abutting properties which execute a waiver releasing the City from any future liability for repairs to the sidewalk. The property owner did not sign the waiver.

PREVIOUS COUNCIL ACTIONS

February 18, 2016 – 120.2: Appeal of an administrative decision pertaining to an unsafe sidewalk at 135-149 S. Central Avenue.

February 28, 2016 – 120.3: Appeal of an administrative decision pertaining to an unsafe sidewalk at 125 S. Central Avenue.

March 3, 2016 – 40.1 Council Bill 2016-27: A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue.

March 3, 2016 – 40.1 Council Bill 2016-28: A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135-149 S. Central Avenue.

March 3, 2016 – 40.1 Council Bill 2016-29: A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue.

April 7, 2016 – 60.1 Council Bill 2016-27: Continued from March 3, 2016. A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue.

April 7, 2016 – 60.2 Council Bill 2016-27: Continued from March 3, 2016. A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

April 7, 2016 – 60.3 Council Bill 2016-27: Continued from March 3, 2016. A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue.

July 7, 2016 – City Manager and other staff reports: Update on downtown sidewalk appeals.

January 19, 2017 – 60.4 Council Bill 2017-09: A resolution adding the addition of a project to the current budget for the repair and replacement of sidewalk on Central Avenue. This item was continued to the February 2, 2017, City Council meeting, pending a Medford Urban Renewal study at Noon on January 26, 2017.

February 2, 2017 – Council approved adding \$300,000 to the current budget for sidewalk repair/replacement.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.1

www.ci.medford.or.us

February 16, 2017 – Council reactivated the sidewalk appeal for the property located at 135 through 149 S. Central Avenue and directed staff to draft a resolution affirming the Public Works Director's administrative decision requiring the repair of unsafe sidewalk at those addresses, granting the property owner 90 days to complete repairs.

ANALYSIS

Section 3.010 of the Medford Municipal Code requires owners of property within the city to inspect and maintain all sidewalks abutting their property in a condition safe for use by the public at all times. The code further states that if any property owner by his neglect to perform any duty required by this section causes injury or damage to any person or property, he shall be liable to the person suffering such injury or damage and indemnify the city for all damages it has been compelled to pay in such cases. Adoption of this resolution places responsibility for sidewalk repairs on the property owner who has not signed a waiver and grants 90 days to complete the repairs. If repairs are not completed by the property owner then the City will perform the repairs and bill the property owner for related costs.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

Early resolution is desired in order that the work can be done in conjunction with other Council-directed repairs at lower costs.

COUNCIL OPTIONS

Approve, modify or deny the resolution.

STAFF RECOMMENDATION

Staff recommends approval of the resolution.

SUGGESTED MOTION

I move to approve the resolution denying the appeal of an administrative decision regarding the defective sidewalk at 135-149 S. Central Avenue and directing the property owner to complete repairs within 90 days.

EXHIBITS

Resolution

RESOLUTION NO. 2017-18

A RESOLUTION affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

WHEREAS, the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue pursuant to section 3.010 of the Medford Code was appealed to the City Council by appellant, Central Avenue Properties, LLC; and

WHEREAS, the City Council reviewed the decision and considered the matter upon appeal and affirmed the Public Works Director's decision; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

Section 1. The City Council finds there is substantial evidence in the record affirming the Public Works Director's decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue, which repairs are to be completed within 90 days from the date hereof.

Section 2. The property owner shall indemnify the City of Medford from any liability associated with the subject unsafe sidewalk.

Section 3. The appeal is hereby denied.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.2

www.ci.medford.or.us

DEPARTMENT: Legal
PHONE: 541-774-2020
STAFF CONTACT: Kevin McConnell, Deputy City Attorney

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: March, 2, 2017

COUNCIL BILL 2017-19

An ordinance amending section 9.415 of the Medford Municipal Code pertaining to selection of properties for receivership.

SUMMARY AND BACKGROUND

As currently written, Section 9.415 (2) is too broad, and the term "interested parties" should be amended to state "the owner." This change accurately reflects what the Council intended the Manager (Building Director) consider when selecting a property eligible for receivership.

PREVIOUS COUNCIL ACTIONS

Council approved Ordinance 2016-142 pertaining to receivership and Ordinance 2016-56 to adopt the International Property Maintenance Code on December 1, 2016.

ANALYSIS

This is a housekeeping amendment that clarifies what the Manager (Building Director) must consider when selecting a property for a receivership action before seeking City Council's approval. To remedy building and housing code violations, the Manager generally attempts to seek compliance from the owner pursuant to the International Property Maintenance Code. If compliance is not gained, the Manager has the authority to apply to the Jackson County Circuit Court for the appointment of a receiver. While the City implemented the state receivership statute, it chose to adopt its own procedure. Per that procedure, the Council must approve both the Manager's selection of properties and the selection of receivers. The City has chosen to separate these proceedings. The Manager must first select properties eligible for the appointment of a receiver.

Pursuant to section 9.415, a property is eligible if:

- 1) it is in violation of a housing or building code that threatens the public health, safety, or welfare and
- 2) the interested parties have not acted in a timely manner to correct the violations.

If the Manager can make these findings and the Council approves of the selection, the Manager shall then deliver a notice of the City's intention to file an application for the appointment of a receiver to all interested parties.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

COUNCIL OPTIONS

Approve, modify, or deny the ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance amending section 9.415 of the Medford Municipal Code.

EXHIBITS

Ordinance.

ORDINANCE NO. 2017-19

AN ORDINANCE amending section 9.415 of the Medford Municipal Code pertaining to selection of properties for receivership.

Section 1. Section 9.415 of the Medford Municipal Code is hereby amended:

9.415 Selection of Properties.

In selecting properties where the City may seek appointment of a receiver, the Manager shall consider those properties that have, at a minimum, the following characteristics:

- (1) A violation of a building or housing code that threatens the public health, safety, or welfare; and
- (2) The ~~interested parties have~~ **owner has** not acted in a timely manner to correct the violations.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2017.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2017.

Mayor

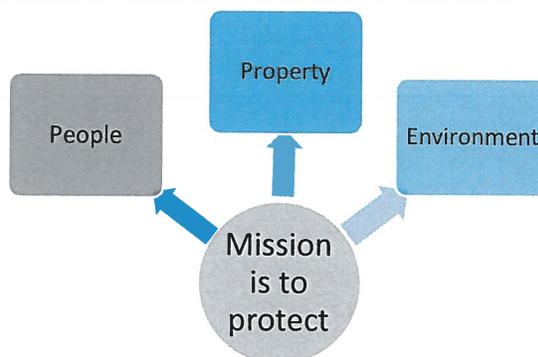
NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (***) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

Medford Natural Hazards Mitigation Plan Update

February 2017

The overarching mission and purpose is to protect people, property, and the environment from the impact of natural disasters.

**City of Medford
2010 Natural Hazards Mitigation Plan**



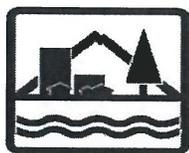
The City of Medford first completed a Natural Hazards Mitigation Plan (NHMP) in November 2004 and updated it in August 2010.

Since June of 2016, the City of Medford has been collaborating with the Oregon Department of Land Conservation and Development (DLCD) to update the NHMP again. An approved plan is required to maintain eligibility to receive pre- and post-disaster funds from FEMA. The updated NHMP will maintain that eligibility. The City is a participant in the National Flood Insurance Program (NFIP) which enables property owners to purchase flood insurance. In addition, the City participates in the Community Rating System program. This voluntary program provides a reduction in flood insurance premium rates to policyholders as an incentive for communities who provide programs that exceed minimum NFIP standards.

A Steering Committee of more than 20 agency and community representatives, led by Emergency Management and Planning Department staffs, is working with the DLCD staff. The updated NHMP is targeted for completion by June 30, 2017.

The NHMP is part of Medford’s emergency preparedness and hazard mitigation planning efforts. Integration of the NHMP with Medford’s other plans, programs, and policies helps ensure that hazard management will be considered in emergency management and land use planning decisions; thus the NHMP makes the Medford community safer and more resilient.

Medford’s top natural hazards are: 1. severe weather; 2. emerging infectious diseases; 3. air quality; 4. wildland-urban interface fires, and; 5. earthquakes. Other hazards include volcanic eruptions, floods, and landslides.



**Oregon
Department of
Land
Conservation
and
Development**

Website: <http://readymedford.org>
Email: naturalhazards@cityofmedford.org



Hazard mitigation includes any actions taken to eliminate or reduce the vulnerability of people, property, and the environment to hazards. Mitigation actions may include adopting hazard-sensitive construction, enhancing policy and regulation, modifying land use, enhancing response capabilities, and insuring against severe hazards.

The NHMP examines and prioritizes the hazards facing the community and assesses the vulnerability of its people, property, and environment. The plan also identifies a set of mitigation actions that may be taken to reduce the impacts of those hazards.

The NHMP Steering Committee will meet for the fourth time on March 2, 2017. Between meetings project collaboration is maintained by use of telephone, email, and the Web.

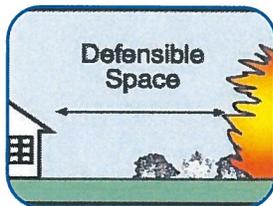
A Hazard Analysis was performed to identify and rank Medford's natural hazards. Existing maps have been updated with new data and new maps have been created.

An open house was held January 12, 2017 to inform interested community members and elicit their input into the planning process.

The City of Medford website has been updated throughout the project to include information about the NHMP. The Emergency Management home page, <http://www.ci.medford.or.us/SectionIndex.asp?SectionID=584>, alerts the reader to the Natural Hazards Mitigation Plan and directs them to click on the link to <http://readymedford.org> where additional details are provided.

Key remaining steps include: Prioritizing mitigation actions, refining the current draft plan, submitting the document for approval by City, State, and Federal agencies, continued collaboration with Jackson County on their NHMP and the inclusion of the Medford NHMP.

Goals of the Medford NHMP



Prevention



Enhancing Emergency Services



Promoting Public Awareness



Forming Private/
Public Partnerships

City of Medford 2017 NHMP Update Hazard Analysis - Summary

Methodology:

This Hazard Analysis was first developed by FEMA in 1983, gradually refined by Oregon Emergency Management (OEM) and shared with local jurisdictions across Oregon. Although nearly every jurisdiction in Oregon uses this process, the range of scored values is relative only within the individual jurisdiction; it is not meant to compare one jurisdiction to another.

The methodology produces scores that range from 24 (lowest possible) to 240 (highest possible):

- **Vulnerability** examines both typical and maximum credible events in terms of the amount of population and property likely to be affected.
- **Probability** is a measure of the likelihood of a future event occurring within a specific period of time. It uses the frequency of the occurrence of hazard events.

Vulnerability accounts for approximately 60% of the total risk score, and probability accounts for approximately 40%.

Hazard analysis is an early step in determining the risk – the potential for harm – facing a community. When complete, it provides a table of relative risks to focus planning priorities on those hazards most likely to occur and cause the most damage. This hazard analysis, therefore, is constructed to:

- Establish priorities for planning, capability development, and hazard mitigation,
- Identify needs for hazard mitigation measures,
- Educate the public as well as public officials about hazards and vulnerabilities, and
- Make informed judgments about potential risks.

The City of Medford's prior hazard analysis was completed on March 3, 2004 and used in both the 2004 and 2010 Natural Hazards Mitigation Plans (NHMP). The current hazard analysis was performed on September 23, 2016 as part of the 2017 NHMP update. It provided an opportunity to revisit the hazards, update the analysis, and reorder the priorities if necessary.

Medford's natural hazards are shown in tables later in this summary.

Values assigned as scores are inherently subjective. Use of a large steering committee is intended to avoid artificially high or low scores based on personal experience or bias.

DESIGNATION	RATING
LOW	0 to 3
MEDIUM	4 to 7
HIGH	8 to 10

By multiplying the *weight factors* associated with the categories by the *severity ratings*, we arrive at a sub-score for history, vulnerability, maximum threat, and probability for each hazard. Adding the sub-scores produces a **total risk score** for each hazard.

History is the record of previous occurrences requiring a response. Weight factor: 2.

- Low: 0-1 event in the past 10 years
- Medium: 2-3 events in the past 10 years
- High: 4+ events in the past 10 years

Vulnerability is a measure of the percentage of the population and property likely to be affected during an occurrence of an incident. Weight factor: 5.

- Low: <1% affected
- Medium: 1 – 10% affected
- High: >10% affected

Maximum Threat is a measure of the highest percentage of the population or property which could be impacted under a worst-case scenario. Weight factor: 10.

- Low: <5% affected
- Medium: 5 – 25% affected
- High: >25% affected

Probability is a measure of the likelihood of a future event occurring within a specified period of time. Weight factor: 7.

- Low: more than 10 years between events
- Medium: from 5 to 10 years between events
- High: likely within the next 5 years

Hazard Analysis Summary

2016 Scores (2004 total scores and rankings included for comparison)

HAZARD (Former category names shown in parentheses)	HISTORY WF = 2	VULNERABILITY WF = 5	MAX THREAT WF = 10	PROBABILITY WF = 7	2016 SCORES	2016 RANKING	2004 SCORES	2004 RANKING
Severe Weather: Includes drought, winter storms, snow, ice, cold, heat, wind, rain (Severe Storms)	10	10	10	10	240	1	233	1
Emerging Infectious Diseases (Epidemics)	6	7	10	7	196	2	178	5
Air Quality (Poor Air Quality)	8	8	7	9	189	3	179	4
Wildland-Urban Interface Fires	9	5	7	10	183	4	159	7
Earthquakes	1	10	10	3	173	5	201	3
Volcanic Eruptions	1	10	10	1	159	6	160	6
Floods	6	5	8	5	152	7	225	2
Landslides	8	3	3	9	124	8	148	8

2016 Risk Levels

HAZARD	RISK SCORE	RISK LEVEL
Severe Weather	240	High
Emerging Infectious Diseases	196	High
Air Quality	189	Medium-High
Wildland-Urban Interface Fires	183	Medium-High
Earthquakes	173	Medium
Volcanic Eruptions	159	Medium
Floods	152	Medium
Landslides	124	Low

HAZARD ANALYSIS RECAP

The hazard analysis work was performed at the September 23, 2016 Medford NHMP Steering Committee meeting. This Summary was prepared on February 22, 2017.

Issues Identified During the Discussion

In this assessment, four measures characterizing risk – history, vulnerability, maximum threat, and probability – are assessed as to severity, weighted, and added together to derive a relative risk score for each hazard. The weights for each measure are provided in the matrix above.

Much discussion occurred regarding the definitions of the weighted measures. For example, when defining vulnerability and maximum threat, the percentages are based on those “affected”. Questions arose as to how much impact or influence is considered “affected” to the population and property. Estimating the appropriate percentage for vulnerability and maximum threat provided some challenge.

The group continued to come to consensus on the ratings for each of the four measures, as well as the total score, for each hazard. Several hazards - floods, air quality, and wildland-urban interface fires (WUI) - were discussed more than once, and revised ratings were made as a result of the discussions. Wildland-urban interface fires were further discussed with Chief Fish of Medford Fire-Rescue after the meeting. Medford Fire-Rescue provides response in the City and has provided response since 1952 to the Medford Rural Fire Protection District. With this in mind, the risk ratings for WUI were adjusted to reflect the events that occur in both areas.

Earthquakes generated discussion regarding the idea that the methodology really does not fit. Catastrophic earthquake is appropriately a focus of preparedness by local agencies, non-profits, and the entire community, however they do not happen frequently in this area. Researchers recently calculated the likelihood of a Magnitude 8 to 9 Cascadia Subduction Zone earthquake at 37% over the next 50 years. The last such event occurred in January of 1700, causing a tsunami in Japan, however the tool’s **History** scale only accounts for events within the past ten

years. Similarly, the **Probability** scale assigns a low designation to any event unlikely to occur at ten-year intervals or greater. The Medford NHMP Steering Committee agreed that the risk score for earthquakes is artificially low.

Floods most commonly occur naturally. It should be noted that levees and dams can be breached (by natural or other hazards) and have flood impacts. Medford could be impacted by breaches of Lost Creek, Emigrant, and/or Hosler Dams. Flooding could restrict travel across Bear Creek, potentially impacting response and recovery operations and routine transportation.

Severe storms scored all the points possible due to the breadth of hazard types within this category, the frequency, and numbers of people impacted.

MEDFORD'S HAZARDS IN SUMMARY

Severe Weather: Severe weather includes drought, winter storms, snow, ice, cold, heat, wind, and rain. In Medford, rain, wind, snow, and ice events most commonly occur in October through March or April.

Floods: Medford experiences the most severe flooding conditions when the effects of snowmelt and direct, heavy rainfall combine during periods of warmer temperatures in winter and early spring months. Most commonly, floods occur from natural events (impacts from which can be greatly influenced by rural and urban development). It is also possible that levees and dams (Lost Creek Dam, Emigrant Dam, and Hosler Dam) could be breached and would potentially impact Medford.

Earthquakes: Medford is susceptible to impacts from earthquakes from four sources: (a) the off-shore Cascadia Subduction Zone (CSZ), (b) deep intraplate events within the subducting Juan de Fuca plate, (c) shallow crustal events within the North America Plate, and (d) earthquakes associated with renewed volcanic activity. The Cascadia Subduction Zone and the subduction process is responsible for most of the earthquakes in the Pacific Northwest as well as for creating the volcanoes in the Cascades.

Air Quality: Given its bowl-like shape, the Rogue Valley experiences periods of air stagnation and atmospheric temperature inversions that trap airborne pollutants. Although past air quality issues typically arose from use of wood stoves for winter heating, recent issues have been related to summer and fall smoke from wildfires in southern Oregon and northern California.

Emerging Infectious Diseases: Recent infectious diseases have demonstrated the potential to cause widespread concern and cost communities' healthcare systems vast amounts of money, even when occurring in small numbers. Ebola and Zika are contemporary examples.

Volcanic Eruptions: Although not highly vulnerable to most direct volcanic hazards such as blast effects, relatively nearby volcanoes could inundate the area with ashfall sufficient to paralyze transportation and cause widespread health concerns.

Wildland-Urban Interface Fires: The areas where development meets vegetative fuels, such as forestland, are commonly referred to as the wildland-urban interface (WUI). Although not at high risk for wildfire per se, sustained smoke exposure is a hazard throughout the community.

Landslides: Some areas of Medford, primarily on Roxy Ann slopes, are highly vulnerable to land movement. This hazard can be exacerbated during flooding or earthquake conditions.

City of Medford and Medford Urban Renewal Agency Budget Calendar for 2017

Monday
4/17/17

- City & MURA Budget Committee Study Session (noon, George Prescott Room, Police Headquarters)
- ◆ Present MURA Budget Message
 - ◆ Preliminary 2017-2019 Biennium Budget distributed
 - ◆ Present City Budget Message
 - ◆ Preliminary 2017-2019 Biennium Budget distributed

Wednesday
4/19/17

- MURA Budget Committee Meeting (6pm, George Prescott Room, Police Headquarters)
- ◆ Budget Presentation
 - ◆ Budget Committee Vote on Tentative Budget

Monday
4/24/17

- First City Budget Committee Meeting (6pm, George Prescott Room, Police Headquarters)
- ◆ DEPARTMENT Presentations

Wednesday
4/26/17

- Second City Budget Committee Meeting (6pm, George Prescott Room, Police Headquarters)
- ◆ DEPARTMENT Presentations

Monday
5/1/17

- Third City Budget Committee Meeting (6pm, George Prescott Room, Police Headquarters)
- ◆ DEPARTMENT Presentations

Wednesday
5/3/17

- Fourth City Budget Committee Meeting (6pm, George Prescott Room, Police Headquarters)
- ◆ DEPARTMENT Presentations
 - ◆ Budget Committee Vote on Tentative Budget

Thursday
5/18/17

- MURA Board Meeting (6:30pm, City Council Chambers)
- ◆ Adopt 2017-2019 Biennium Budget

Thursday
6/15/17

- City Council Meeting (7pm, City Council Chambers)
- ◆ Adopt 2017-2019 Biennial Budget



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 120.1

www.ci.medford.or.us

DEPARTMENT: Planning Department
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP, Planning Director

AGENDA SECTION: Public Hearing
MEETING DATE: March 2, 2017

SUMMARY AND BACKGROUND

Consideration of an appeal of the Planning Commission approval of a Conditional Use Permit for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district. The appellant contends that the Planning Commission erred in its decision to allow a maximum of six guests in lieu of the 10 guests the applicant requested. (File No. CUP-16-139)

PREVIOUS COUNCIL ACTIONS

The City Council has not previously considered this item.

ANALYSIS

An Executive Summary has been prepared by staff and included as Exhibit A.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None identified.

TIMING ISSUES

Under Medford Land Development Code (MLDC) Section 10.166, the approving authority shall take final action on an application within 120 days after the application is deemed complete. ORS 227.178(1) further requires that, "...the governing body of a city...shall take final action on an application...including resolution of all appeals...within 120 days after the application is deemed complete." The 120th day for this application is March 22, 2017. The City Council must render its decision by that date.

COUNCIL OPTIONS

In an appeal of a land use decision, the City Council has four options:

1. Affirm the decision of the Planning Commission.
2. Reverse the decision of the Planning Commission. If the Council does this, the Council must specify the reasons for reversal.
3. Modify the decision of the Planning Commission and specify the reasons for such modification.
4. Remand the decision back to the Planning Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the property owner concurs and agrees to extend the 120-day limit.

STAFF RECOMMENDATION

Staff recommends that the City Council find that the Planning Commission did not error in its decision to approve CUP-16-139 and limit the number of guests to six because no legal error was committed and there is sufficient evidence in the record to support the Planning Commission decision.

SUGGESTED MOTION

I move to approve the resolution upholding the Planning Commission decision to approve CUP-16-139 and limit the number of guests to six because no legal error was committed and there is sufficient evidence in the record to support the Planning Commission decision.

EXHIBITS

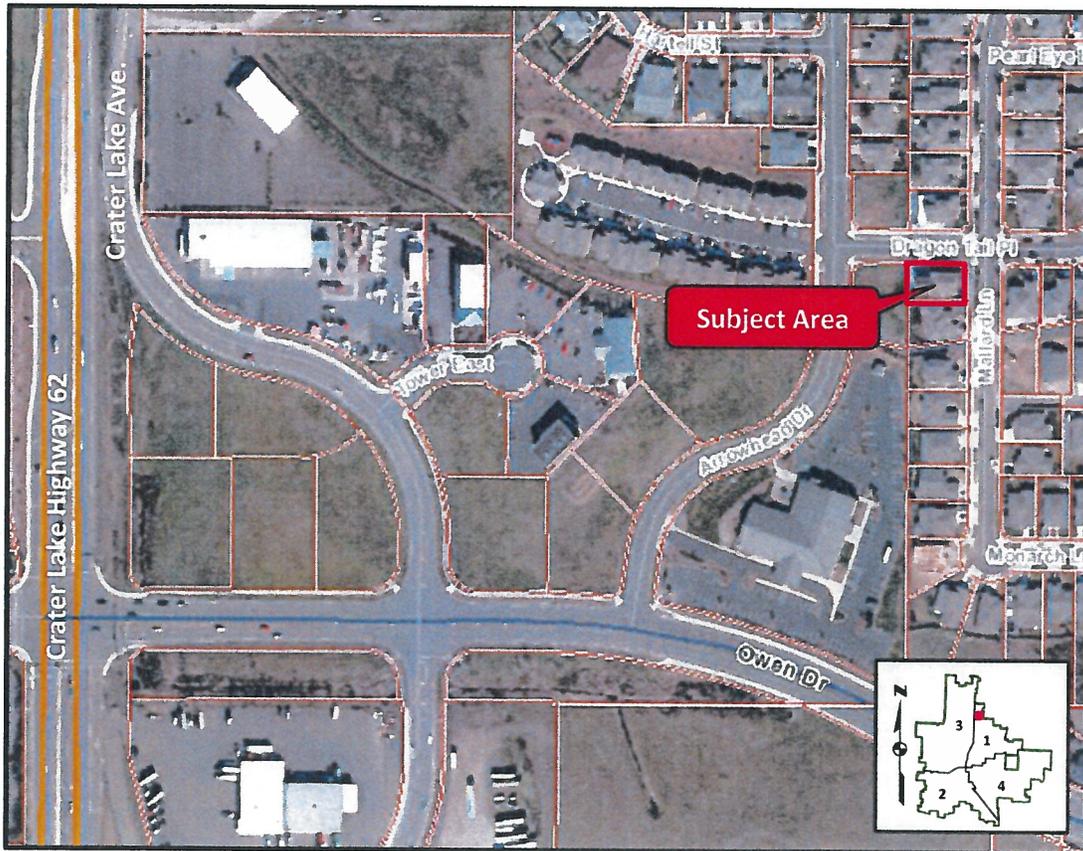
Exhibit A – Executive Summary and map, dated February 23, 2017, including Exhibits 1 through 5

Executive Summary

Consideration of an appeal of the Planning Commission approval of a Conditional Use Permit for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district. The appellant contends that the Planning Commission erred in its decision to allow a maximum of six guests in lieu of the 10 guests the applicant requested. (File No. CUP-16-139)

Dated: February 23, 2017

Vicinity Map



What are the issues before the City Council?

Did the Planning Commission err in its decision to allow a maximum of six guests in lieu of the 10 guests the applicant requested? (Notice of Appeal, Exhibit 1)

City Council Scope of Review

The City Council's scope of review is listed in Medford Land Development Code Section 10.053 and is summarized below.

Upon review, the City Council:

- *Shall not re-examine issues of fact, and*
- *Shall limit its review to determining:*
 - *Whether there is substantial evidence to support the findings of the tribunal which heard the matter, or*
 - *If errors in law were committed by such tribunal.*
- *Review shall be limited to those issues set forth in the notice of appeal.*
- *Review shall be based on the record of the initial proceedings.*

Chronology

1. On November 1, 2016, Robert Forrest and Ninthorn Buaklang (Applicants) submitted a Conditional Use Permit application to establish a bed and breakfast service (B&B) at 3663 Mallard Lane. The subject site is the applicants' residence and is located on the southwesterly corner of Mallard Lane and Dragon Tail Place (file no. CUP-16-139).
2. On November 22, 2016, the application was deemed complete. The 120th day is March 22, 2017.
3. The public hearing was scheduled for January 12, 2017. Public hearing notices were not sent because of a staff error. The item was properly noticed for the Planning Commission meeting of January 26, 2017. Staff requested that the Planning Commission adopt the final order immediately following the public hearing to avoid running afoul of the 120 day rule.
4. On January 26, 2017, the Planning Commission held a public hearing on CUP-16-139. The Commission heard the staff report and received written testimony from a neighboring property owner. The applicant, Mr. Forrest, attended the meeting but did not testify. The Commission voted to adopt the Final Order conditionally approving CUP-16-139. The motion to approve limited the occupancy of the B&B to six guests.
5. On January 31, 2017, the action letter was mailed, setting the final appeal date of February 14, 2017.
6. On February 7, 2017, the City received an appeal on the decision to approve the Conditional Use Permit application CUP-16-139 from Robert Forrest & Ninthorn Buaklang (Applicants, now Appellants) (Exhibit 1). Appellant has standing in this matter.
7. Per Medford Land Development Code Section 10.052, the appeal hearing before the City Council must be set at its next regular meeting that falls not less than 14 days after

the date the appeal is filed. The appeal hearing date was scheduled as required for March 2, 2017. The 120th day is March 22, 2017.

Medford Land Development Code Criteria

The applicable approval criteria are found in Medford Land Development Code (MLDC) Section 10.248, Conditional Use Permit Criteria.

The approving authority (Planning Commission) must determine that the development proposal complies with either of the following criteria before approval can be granted.

- (1) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.*
- (2) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the approving authority (Planning Commission) to produce a balance between the conflicting interests.*

In authorizing a conditional use permit the approving authority (Planning Commission) may impose any of the following conditions:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- (2) Establish a special yard or other open space or lot area or dimension requirement.*
- (3) Limit the height, size, or location of a building or other structure.*
- (4) Designate the size, number, location, or nature of vehicle access points.*
- (5) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.*
- (6) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading area.*
- (7) Limit or otherwise designate the number, size, location, height, or lighting of signs.*
- (8) Limit the location and intensity of outdoor lighting, or require its shielding.*
- (9) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.*
- (10) Designate the size, height, location, or materials for a fence.*
- (11) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.*

Project Summary

The subject request involves a 0.14 acre residential lot developed with a two-story, 2,938 square foot single-family home along with an attached two-car garage. The applicants, who constructed the home in 2001, propose to use two bedrooms and two bathrooms as a B&B for overnight lodging and breakfast for guests. The Applicants' narrative explains that they will be the proprietors of the business and will continue to live at the residence. Parking for guests will be provided in the paved driveway. The Applicants will continue to use the garage for the required parking for the single family residence.



Special Use Standards

B&B's are permitted in the subject SFR-6 zone district subject to the approval of a Conditional Use Permit and the special use standards contained in MLDC 10.828, Bed and Breakfast Service, listed below. The language at MLDC 10.828(1)(c) is at issue in this appeal.

The intent is to provide temporary travelers' accommodations and breakfast in a single family residence for a fee, on a daily or weekly room rental basis, not to exceed fourteen (14) consecutive days.

(1) Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

(d) Two (2) on-premise signs may be approved by the approving agency (Planning Commission) provided that each sign is compatible with residential uses and is not more than six (6) square feet in size and not exceeding an overall height of six (6) feet.

(e) All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

Notice of Appeal

A single Notice of Appeal was filed on February 7, 2017, which is within 14 days of the date the notice of the Planning Commission action was mailed as required in MLDC 10.051.

Allegations of Error

A single allegation of error is identified in the appeal (Exhibit 1).

Most of the information and arguments contained in the appeal were not presented to the Planning Commission. Under MLDC 10.053, the City Council's review is based on the record of the initial proceedings. New information, arguments or evidence may not be considered.

1. The Appellant contends, *"The record shows that our application for the Mallard House B&B specifically asked for up to 10 people at any one time. The Planning Commission approved our application but changed the number of people we want to have approved from 10 people to six people...We contend that the Planning Commission erred in not granting us the requested maximum number of guests to be 10."*

Staff Response:

Beginning on Page 4 of the Commission Report dated January 26, 2017, there is an analysis of each of the special use standards for B&B's contained in MLDC 10.828 (Exhibit 2). At issue is the standard at 10.828(1)(c):

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

This subsection requires annual health and sanitation inspections by Jackson County; however, staff's analysis of MLDC 10.828(1)(e) states that Jackson County rules exempt B&B establishments from annual inspections for sanitation standard compliance when offering fewer than three rooms for rent. The Appellant submitted an e-mail reducing the number of guest rooms from four to two, describing the requirements of the Health Authority of Oregon and the Jackson County branch as "formidable to accomplish in the short run." (Exhibit L to Exhibit 2) The Appellant did not offer any evidence that the necessary health and sanitation facilities would be or would continue to be provided to any particular level of service.

The Appellant's findings minimally discuss neighborhood impacts such as noise, lighting and traffic. Parking is provided to the Hotel/Motel parking standard in MLDC 10.743-1 for the B&B, which requires one parking space per guest room, plus the two required per single family residence.

The Appellant seems to imply that the Planning Commission should have granted the request because the issue was discussed in the Staff Report (Exhibit 1, page 1). Staff simply pointed out the discretionary nature of the decision. In MLDC 10.122, the Planning Commission is designated as the approving authority for several Class C application types, including Conditional Use Permits. Staff has the duty to analyze applications for compliance with the requirements of the *Comprehensive Plan* and the MLDC and report its findings to the deciding body in MLDC 10.223(4). Staff makes recommendations and acts as a resource to the Planning Commission, but has no decision making authority in Conditional Use Permit or any other Class C applications. Regardless of whether staff made a recommendation on the number of guests, a Planning Commission decision to not adopt a staff recommendation does not constitute an error on the part of the Commission.

The Appellant chose not to testify or answer questions that the Commission raised during the staff presentation. The Appellant chose instead to provide testimony on appeal that would have been helpful to the Planning Commission as it considered the application. The bulk of the testimony on Page 2 and most all of the testimony on Pages 3 and 4 are not part of the record. Under MLDC 10.053, this information cannot be considered by the City Council.

It is true that the Planning Commission did not discuss the question of the number of guests permitted; however, there is evidence in the record to support the decision. MLDC 10.828(1)(c) generally limits the number of guests to six and gives the Planning Commission authority to determine the number of guests based on facilities and neighborhood standards, but does not

require the allowance of more than six guests. The Planning Commission did not err in its decision.

Summary

The Planning Commission found that the application met the approval criterion found in MLDC 10.248(1) and limited the number of guests to six as provided in MLDC 10.828(1)(c). Based on the analysis of the record provided above, the Appellant did not provide sufficient persuasive evidence to support approval of the application with a maximum of 10 guests.

City Council Options

The City Council will need to determine if there is substantial evidence in the record to support the decision of the Planning Commission. The options are:

1. If the Council finds that there is substantial evidence in the record to conclude that the Planning Commission decision was correct and that the evidence in the record supports the Commission's findings, then the Council should affirm the decision.
2. If the Council finds that the evidence in the record supports the Appellant's contention that the decision was in error or that there is not substantial evidence to support the decision, then based upon substantial evidence in the record the City Council should:
 - a. Reverse the decision. If the Council does this, the Council must specify the reasons for reversal; or
 - b. Modify the decision and specify the reasons for such modification; or
 - c. Remand the decision back to the Planning Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the Appellant concurs and agrees to extend the 120-day limit.

Recommendation

There is a single question before the Council: Did the Planning Commission err in its decision to approve the Conditional Use Permit and limit the number of B&B guests to six?

The City Council can find that the Planning Commission did not err in its decision to because no legal error was committed and there is sufficient evidence in the record to support the Planning

Executive Summary
Appeal of Planning Commission Decision
Robert Forrest & Ninthorn Buaklang, Appellants (CUP-16-139)
February 23, 2017

Commission decision to approve the Conditional Use Permit application and limit the number of guests to six.

With regard to the special use standard at MLDC 10.828(1)(c), staff recommends that the City Council find that the Planning Commission has the authority to determine the number of guests. Based on the analysis of the record, the Appellant did not provide sufficient persuasive evidence to support approval of the application with a maximum of 10 guests.

EXHIBITS

- 1 Notice of Appeal received February 7, 2017
- 2 Planning Commission Final Order and Planning Commission Report dated January 26, 2017, with all exhibits
- 3 Excerpts from the Planning Commission Minutes of January 26, 2017
- 4 PowerPoint Presentation to the Planning Commission dated April 28, 2016
- 5 Action Letter dated January 31, 2017

RECEIVED

FEB 07 2017

CITY RECORDER'S OFFICE

To the City of Medford, Oregon February 7, 2017

NOTICE OF APPEAL

We hereby Appeal the Planning Commission Action of the Medford Planning Commission dated January 26, 2017 in the matter of our request for a Conditional Use Permit (CUP), file number CUP-16-139, for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential - 6 dwelling units per gross acre) zoning district (371W08BD TL 2101).

Appellant is the Applicant and has standing to appeal as required by Section 10.051, Appeals.

STATEMENT OF THE SPECIFIC GROUNDS WHICH THE APPELLANT RELIES ON AS THE BASIS FOR THE APPEAL.

The record shows that our application for the Mallard House B & B specifically asked for up to 10 people at any one time.

The Planning Commission approved our application but changed the number of people we want to have approved from 10 people to six people. This is the issue we want to dispute. We want the maximum number of people or guests at any one time to be 10.

We contend that the Planning Commission erred in not granting us the requested maximum number of guests to be 10.

This issue is noted in the Planning Commission Report of January 26, 2017 on page 4 of 7 under (1) Standards. (c).

(c) The Number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

Therefore the Planning Commission should have granted our request of up to 10 persons at one time.

CITY OF MEDFORD

EXHIBIT # 1

File # CUP-16-139

APPEAL

We submit that the record shows that the sanitation facilities would allow more than six persons and that the neighborhood standards would allow more than six persons. The evidence that we presented shows that the "sanitation facilities and neighborhood standards would otherwise allow more". They would allow up to 10 persons which the record shows is the allowed maximum by the City.

Please consider the following examples of our evidence:

Our house is 2,938 square feet.

We submitted all the house and lot plans showing the rooms.

We submitted pictures of the large room upstairs interior.

We have three small bedrooms and two large sleeping rooms. We intend to use one small bedroom downstairs which has a bath adjoining and the large sleeping room upstairs on the west end of the house for our bed and breakfast rooms.

The small bedroom downstairs will have a standard or double bed to sleep two.

The large room upstairs is approximately 23' 4" x 22' 10". It could easily accommodate two queen size beds and some single beds.

The sewer, water, power facilities are mentioned in our record and are adequate for up to 10 persons plus family members. The adequate neighborhood infrastructure is further demonstrated in that there is a 58 unit apartment complex about 120 feet west of our house. There are also other duplexes and four plexes in that area of Medford as well as single family homes.

All of our sleeping rooms and hallways have the required new smoke alarms and two Carbon Dioxide alarms that are ionized and are hard wired with battery backups as the Planning Commission and City departments require.

IN GENERAL COMMENTS

We may never have an occasion where we would have 10 persons using our Bed and Breakfast but we don't want to have to worry about it if in fact we occasionally do have 10 persons.

The marketing or business plan concept is being developed.

Some facilities have a romance motif, like "days of wine and roses", with hot tubs, romantic décor or high end amenities. We don't envision that being our approach.

Others cater to business people and we may have some response from that group so we intend to have two or three desks available for guests to use.

Another approach is to cater to families and I expect that we will probably fit families best of all. Others may come for the skiing, the fishing, the hiking and swimming or the plays in Ashland or the music festivals in Jacksonville.

Some people come to visit relatives. We do not know yet what the market will be for our facility.

Another thing, some of the persons staying with us may have babies. Maybe they will bring a small portable play pen or stroller for their babies to sleep in. Or maybe the baby or small child would share a bed or maybe one or two children would share a bed. I assume a little baby counts as a person.

What if we had a couple upstairs with three children? We could easily accommodate them there. That would be five persons. But, we also have the double bed in the room downstairs in which 2 people could sleep. So that would be seven people.

A lot of people like to travel with their children and their friends and children. Maybe two couples would want to stay with their three kids each. That would be 10 people. So with a limit of 10 persons they would have the whole bed and breakfast for themselves.

We need the flexibility of having approval for 10 people so we can plan what and how many beds to purchase.

The Bed and Breakfast community is just that, a community built on trust. They are people that enjoy staying in a Bed and Breakfast. There is the fun of meeting new people, sometimes from around the world. Gradually a clientele builds up and people return, sometimes often.

One of our neighbors parents come here regularly from Washington. They have inquired about having their parents stay at our Bed and Breakfast which is right next door to them. That would be really convenient for them.

A lot of people when traveling, especially with kids, bring home "take out" food for lunch or dinner or breakfast. As the record shows we have a big house with a good sized dining room and kitchen downstairs. Also downstairs is a family room, a living room with a fireplace and a bathroom. So there are plenty of common areas to lounge in and relax so people aren't going to be spending a lot of time in the sleeping rooms.

We also have some latitude in which guests we except on a certain day. When reservations are accepted that determines what space we have left.

Please keep in mind that there will be many days when we don't have any guests at all.

CONCLUSION:

The Planning Staff recommended approval of our application which included the up to 10 persons provision.

The record shows that we presented the evidence to the Planning Commission that allows us to have up to ten guests at one time under the applicable law. The Planning Commission erred and our interests were adversely affected by the decision.

Thank you. Robert S. Forrest, Ninthorn Buaklang

Robert S. Forrest

Date: 2/7/17

Robert S. Forrest

Ninthorn Buaklang

Date: 2/7/17

Ninthorn Buaklang

BEFORE THE MEDFORD PLANNING COMMISSION
STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF PLANNING COMMISSION FILE CUP-16-139 APPLICATION FOR A)
) ORDER
CONDITIONAL USE PERMIT SUBMITTED BY ROBERT S. FORREST & NINTHORN BUAKLANG)

ORDER granting approval of a request for a conditional use permit for Mallard House Bed & Breakfast described as follows:

A proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101).

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with the Land Development Code, Section 10.246 and 10.247; and,
2. The Medford Planning Commission has duly held a public hearing on the matter of an application for a conditional use permit for *Mallard House Bed & Breakfast* as described above, with a public hearing a matter of record of the Planning Commission on January 26, 2017.
3. At the public hearing on said application, evidence and recommendations were received and presented by the applicant's representative and Planning Department staff; and,
4. At the conclusion of said public hearing, after consideration and discussion, the Medford Planning Commission, upon a motion duly seconded, granted a conditional use permit for *Mallard House Bed & Breakfast* as described above.

THEREFORE LET IT BE HEREBY ORDERED that the application for *Mallard House Bed and Breakfast* as described above, stands approved in accordance per the Planning Commission Report dated January 26, 2017.

AND LET IT FURTHER BE OF RECORD that the action of the Planning Commission in approving this request for *Mallard House Bed and Breakfast*, as described above is hereafter supported by the findings referenced in the Planning Commission Report dated January 26, 2017.

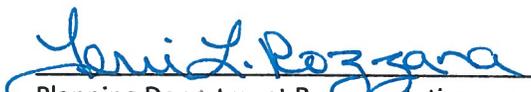
Accepted and approved this 26th day of January, 2017.

CITY OF MEDFORD PLANNING COMMISSION



Planning Commission Chair

ATTEST:


Planning Department Representative

CITY OF MEDFORD
EXHIBIT # 2
File # CUP-16-139
APPEAL



PLANNING COMMISSION REPORT

for a Type-C quasi-judicial decision: **Conditional Use Permit**

PROJECT Mallard House Bed & Breakfast
Applicant: Robert S. Forrest and Ninthorn Buaklang

FILE NO. CUP-16-139

DATE January 26, 2017

BACKGROUND

Proposal

Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101).

Subject Site Characteristics

Zoning: SFR-6
GLUP: Urban Residential (UR)
Overlay(s): Airport Area of Concern (AC)
Use: Single-family residence

Surrounding Site Characteristics

North Zone: SFR-6
Use(s): Single-Family Residences

South Zone: SFR-6
Use(s): Single-Family Residences

East Zone: SFR-6
Use(s): Single-Family Residences

West Zone: MFR-15 (Multi-Family Residential - 15 dwelling units per gross acre)
Use(s): Vacant lot

SCANNED

Related Projects

None

Applicable Criteria

Medford Land Development Code §10.248, Conditional Use Permit Criteria

The approving authority (Planning Commission) must determine that the development proposal complies with either of the following criteria before approval can be granted.

- (1) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.
- (2) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the approving authority (Planning Commission) to produce a balance between the conflicting interests.

In authorizing a conditional use permit the approving authority (Planning Commission) may impose any of the following conditions:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- (2) Establish a special yard or other open space or lot area or dimension requirement.
- (3) Limit the height, size, or location of a building or other structure.
- (4) Designate the size, number, location, or nature of vehicle access points.
- (5) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
- (6) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading area.
- (7) Limit or otherwise designate the number, size, location, height, or lighting of signs.
- (8) Limit the location and intensity of outdoor lighting, or require its shielding.
- (9) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.
- (10) Designate the size, height, location, or materials for a fence.
- (11) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

ISSUES AND ANALYSIS

Background

The subject request involves a 0.14 acre residential lot developed with a two-story 2,938 square foot single-family home, along with an attached two car garage, located on the corner of Dragon Tail and Mallard Lane in the Papillon Estates residential subdivision. The applicants, who constructed the home in 2001, are now proposing to use two bedrooms and two bathrooms of the house as a Bed & Breakfast establishment for overnight lodging and breakfast for guests. The submitted narrative explains that the applicants will be the proprietors of the Bed & Breakfast business, and will continue to live at the residence. The applicant further explained to staff at the Land Development meeting that the two-car garage is intended to be used for their own personal vehicles, while the paved parking pad currently serving as a driveway to their two-car garage, and accessed off of Dragon Tail, will be used as the designated parking area for the guests.

While the Papillon Estates residential subdivision consists exclusively of single-family homes, the subject lot does abut a MFR-15 zoning district on its westerly border which includes a 58 unit apartment building just to the west of the subject lot, as well as other multi-family residences.

Code references

Per MLDC 10.010, the definition of a Bed and Breakfast reads as follows:

A single-family dwelling, or part thereof, other than a motel, hotel or multiple family dwelling, where traveler’s accommodations and breakfast are provided for a fee on a daily or weekly room rental basis, not to exceed fourteen (14) days.

Per MLDC 10.313, Bed & Breakfasts are permitted in the SFR-6 zoning district solely pursuant to the issuance of a Conditional Use Permit (CUP).

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS		SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section
(a)	Bed and Breakfast Inn	X	X	Cs	Cs	Cs	Ps	Ps	Ps	10.828

The special use requirements identified in MLDC 10.823 for Bed and Breakfast service, reads as follows:

The intent is to provide temporary travelers' accommodations and breakfast in a single family residence for a fee, on a daily or weekly room rental basis, not to exceed fourteen (14) consecutive days.

(1) Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

(d) Two (2) on-premise signs may be approved by the approving agency (Planning Commission) provided that each sign is compatible with residential uses and is not more than six (6) square feet in size and not exceeding an overall height of six (6) feet.

(e) All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

Special Use Standards - Analysis

Outward modification of structure/grounds (standard a)

The applicants are not proposing any physical expansion of the existing home, nor are they proposing any exterior modifications to the façade of the home (e.g., siding, windows, etc.) to accommodate the conversion of the home into a dual use as a Bed & Breakfast. Additionally, it is stated in the applicants' submitted narrative that, "There will not be activity conducted outdoors so neighbors will only see the occasional guests coming and going."

Parking (standard b)

The applicants are required to provide one off-street parking space for each room proposed for guests, in addition to providing two off-street parking spaces for the residents of the home (MLDC 10.743-1). Per MLDC 10.746(16), the minimum dimensional standard for a parking space is nine feet in width by nineteen feet in length. Accordingly, the off-street driveway

Committee Comments

No comments were received from committees such as BPAC.

DECISION

At the public hearing held on January 26, 2017, the Commission voted unanimously to approve the request, adding one exhibit and removing one recommended condition of approval:

- During the presentation, staff explained that a neighbor letter had been received after the staff report had been submitted. The letter was added to the record as Exhibit M.
- The Commission struck Discretionary Condition 1 recommended by staff. The applicant had requested to be allowed to exceed the maximum numbers of guests as permitted in MLDC 10.823(1)(c), requesting to be permitted to have up to 10 guests. The request was denied by the Commission, resulting in the removal of the condition of approval.

FINDINGS AND CONCLUSIONS

Staff has reviewed the applicant's findings and conclusions (Exhibit E) and recommends the Commission adopt the findings as submitted.

ACTION TAKEN

Adopted the findings as recommended by staff and adopted the Final Order of approval for CUP-16-139 per the Planning Commission report dated January 26, 2017, including Exhibits A through M.

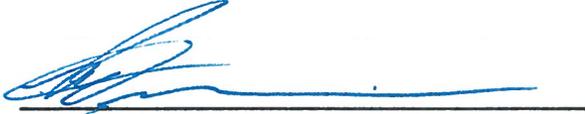
EXHIBITS

- A-1 Conditions of Approval drafted January 26, 2017.**
- B Site Plan received November 1, 2016.
- C Floor plans (1-2) received November 1, 2016.
- D Assessor's Map received November 1, 2016.
- E Applicant's Narrative, Questionnaire, and Findings of Fact received November 1, 2016.
- F Public Works staff report received December 14, 2016.
- G Medford Water Commission memorandum received November 16, 2016.
- H Medford Fire Department report received November 16, 2016.
- I Oregon Department of Aviation (ODA) email received December 9, 2016.
- J Building Department memo received December 14, 2016.
- K Email from applicant requesting 10 persons received December 14, 2016.
- L Email from applicant requesting to reduce request to two rooms received December 23, 2016.
- M Neighbor letter received January 19, 2017.**
Vicinity map

PLANNING COMMISSION AGENDA:

January 26, 2017

MEDFORD PLANNING COMMISSION



Patrick Miranda, Chair

EXHIBIT A-1

Mallard House Bed and Breakfast

CUP-16-139

Conditions of Approval

January 26, 2016

CODE REQUIRED CONDITIONS

Prior to the issuance of a business license, the applicant shall:

1. Comply with all conditions stipulated by the Medford Building Department (Exhibit J)
2. Comply with all conditions stipulated by the Medford Water Commission (Exhibit G).
3. Comply with requirements of the Medford Fire Department (Exhibit H).

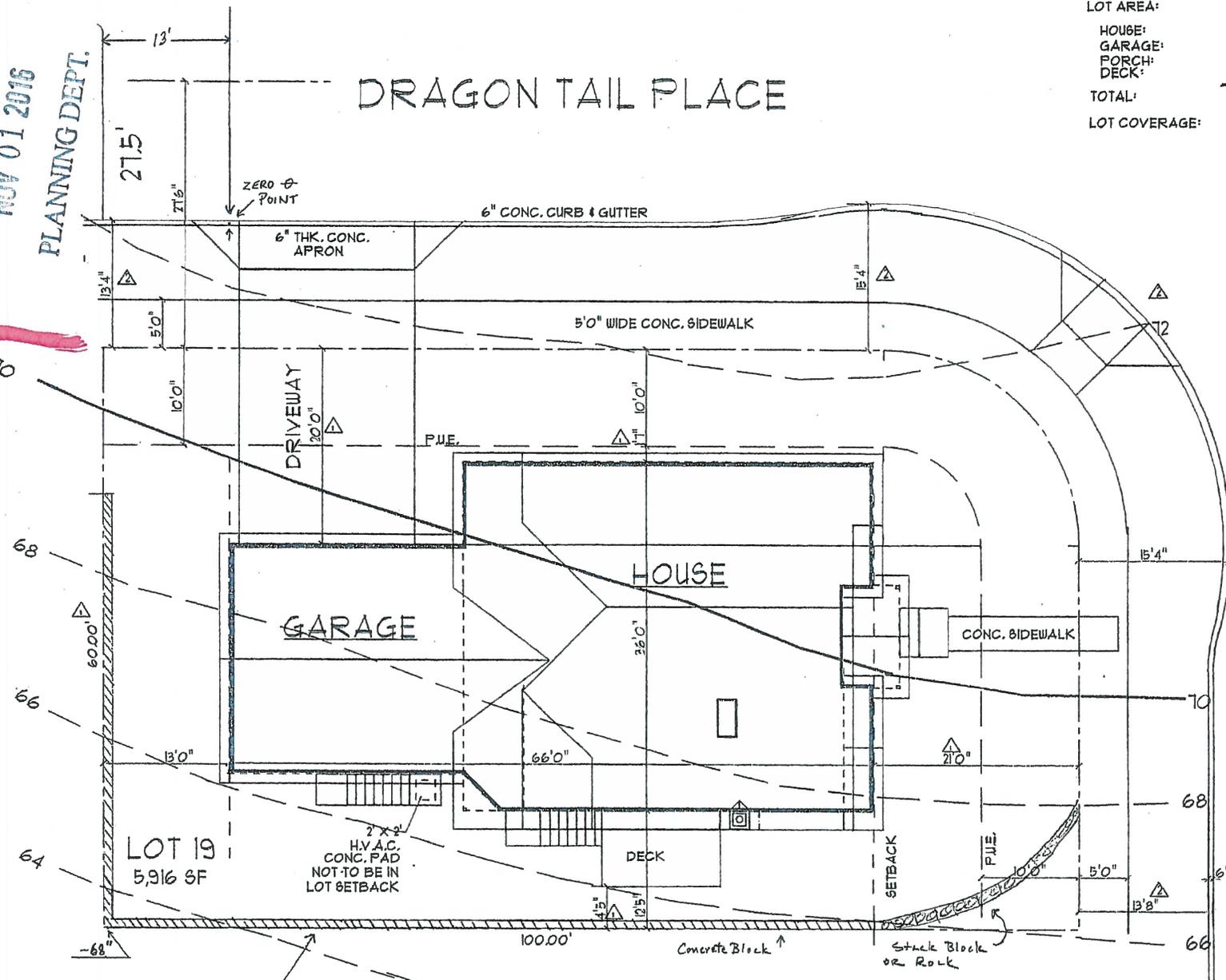
RECEIVED
NOV 01 2016
PLANNING DEPT.

DRAGON TAIL PLACE

SITE DATA:

LOT AREA:	5,916 SF Δ
HOUSE:	1,474 SF
GARAGE:	576 SF
PORCH:	58 SF
DECK:	166 SF
TOTAL:	2,274 SF
LOT COVERAGE:	38.4% Δ

Handwritten: Land Sale



LOT 19
5,916 SF

HOUSE

GARAGE

DRIVEWAY

DECK

CONC. SIDEWALK

6" CONC. CURB & GUTTER

6" THK. CONC. APRON

5'0" WIDE CONC. SIDEWALK

PROPOSED RETAINING WALL
45'W + 79' South Balance Stack block
OR Natural rock

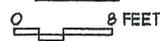
SITE PLAN

SCALE: 1/8" = 1'-0"

MALLARD LANE

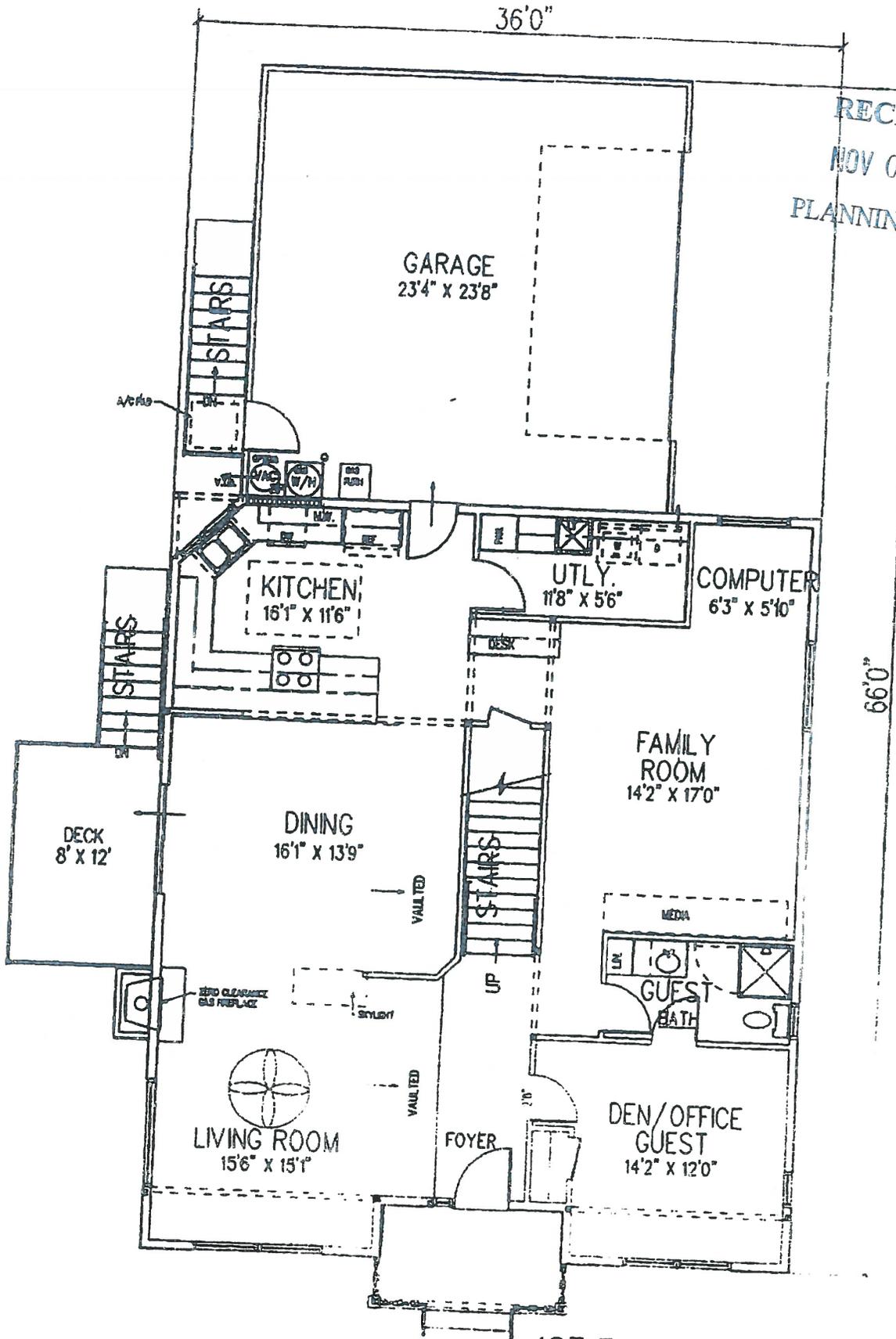


NORTH



CITY OF MEDFORD
EXHIBIT # 9
File # CUP-16-139

RECEIVED
NOV 01 2016
PLANNING DEPT.



1ST FLOOR PLAN
2,372 SF
11/14/00

CITY OF MEDFORD
EXHIBIT # C 1052
File # CUP-16-139

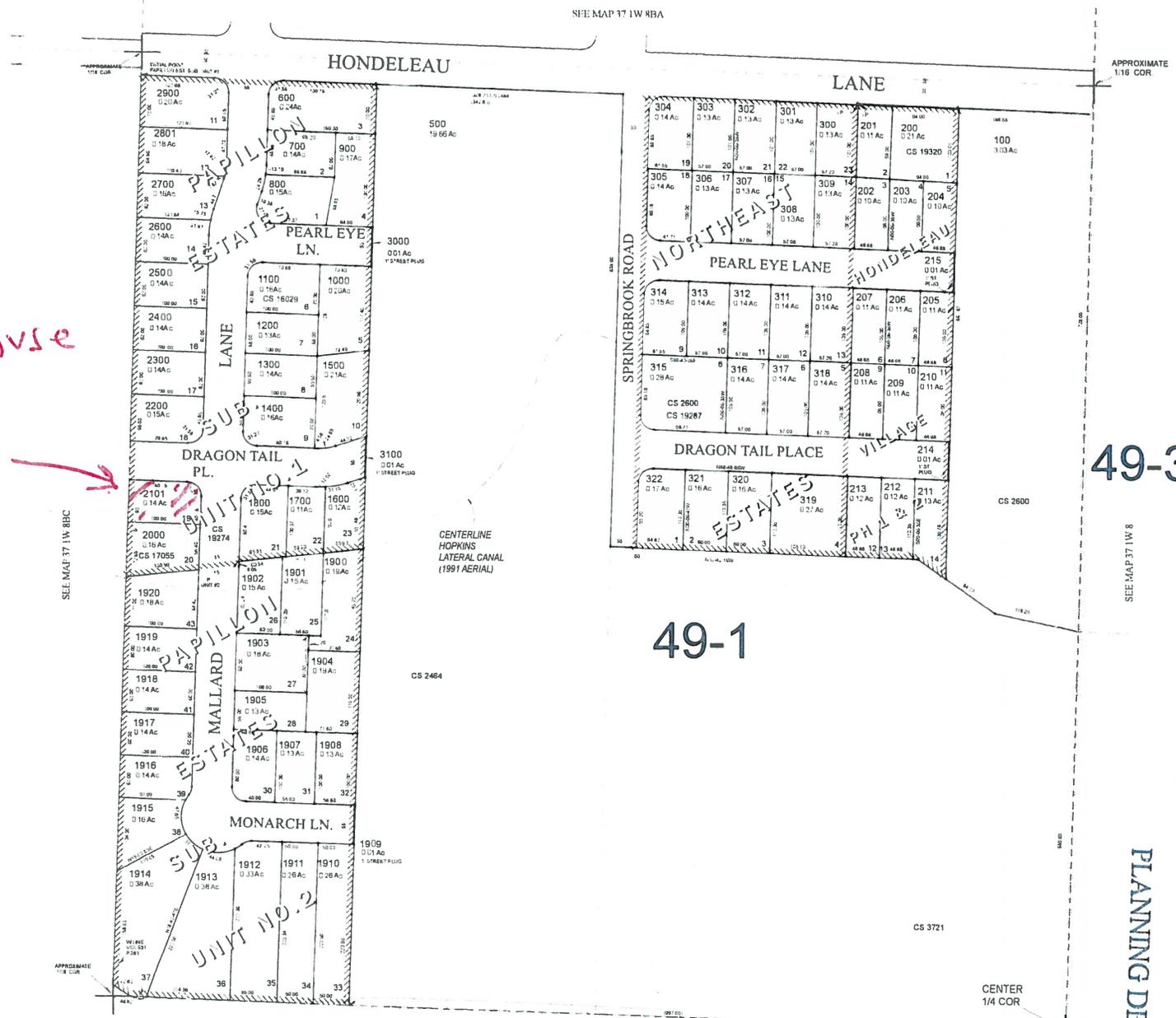
FOR ASSESSMENT AND TAXATION ONLY

S.E.1/4, N.W.1/4, SEC.8, T.37S., R.1W., W.M.
JACKSON COUNTY
1" = 100'

37 1W 08BD
MEDFORD

SEE MAP 37 1W 8BA

APPROXIMATE
1/16 COR



Mallard House
B & B

Page 41

CITY OF MEDFORD
EXHIBIT # 2
File # CUP-16-139

49-3

49-1

49-3

SEE MAP 37 1W 8CA

PLANNING DEPT.

RECEIVED
NOV 01 2016

37 1W 08BD
MEDFORD
NEW MAP FEBRUARY 08, 1999
REV MARCH 28, 2011

CANCELLED TAX
LOT NUMBERS
2100 ADDED TO 2000
2800
3200 KILLED TO STREET
3300 KILLED TO STREET
400 ADDED TO 300

RECEIVED

NOV 01 2016

PLANNING DEPT.

FINDINGS OF FACT AND NARRATIVE

APPLICATION: Request for a Conditional Use Permit to allow for the operation of a Bed & Breakfast at 3663 Mallard Lane, Medford, Oregon, on the SW corner of Mallard Lane and Dragon Tail Place, within an SFR-6 Zoned district.

APPLICANT: Robert S. Forrest and Ninthorn Buaklang
3663 Mallard Lane
Medford, Oregon 97504

BUSINESS: Mallard House B&B
3663 Mallard Lane
Medford, Oregon 97504

BACKGROUND INFORMATION

We propose to use four bedrooms and two bathrooms in our house for overnight lodging and breakfast. We will be the proprietors and we live there.

PROPOSAL AND SCOPE

We propose to offer the best fitting accommodations in regard to which bedrooms and bathrooms best fit the parties. One bedroom is quite large and could easily accommodate a couple and up to four kids. The other three bedrooms are small and would be suitable for two people. We would offer a liberal continental breakfast.

THE SITE

The house is two stories, 2,938 square feet, sitting on a .14 acre city lot in an SFR-6 Zone with City water, sewer, natural gas and electricity. We built the house in 2001 and 2002. The neighborhood is built up with houses 14 years old or newer. There is a 58 unit apartment house one block away. There is a large vacant lot on the west side of our lot. There are also some duplexes and four-plexes in the larger neighborhood. It is fully landscaped with sprinklers and five large trees in the

BOBF/users_share/forrestb/mydocuments/Mallard Lane House/bed & Breakfast App Sept 2016/FINDINGS OF FACT.DOCX October 31, 2016

CITY OF MEDFORD
EXHIBIT # 5
File # CUP-16-139

grassy strip along the curb and others on the south side. There is an attached two car garage and paved off street parking on concrete for four cars. There is also ample on street parking on two sides being a corner lot. The garage and off street parking is accessed off of Dragon Tail and the front entrance of the house is on Mallard Lane.

MEDFORD LAND DEVELOPMENT CODE SECTION 10.248

We believe that our proposed use complies with Section (1):

The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional. The proposed use would be comparable to a family with three or four kids.

MITIGATION OF IMPACTS SECTION 10.249

- 1) It will preserve any unique assets of the community and neighborhood. We will develop the one large room first and then as business grows we will develop each additional bedroom.
*No alterations of any kind are planned to the outside or inside of the house or the property.
- 2) It will provide a public facility to the immediate area or community.
 - There are no Bed and Breakfasts within one mile of our proposed location in North East Medford. We are within walking distance to Costco, Lowe's, Super Walmart, Michael's, Pet Smart, Safeway and several banks and restaurants. We are about two miles from the Medford airport and about one mile from the large, Lithia Motors super store complexes of auto dealerships. The closest motel is about two miles away adjacent to Interstate 5.
- 3) It will "Otherwise provide for a development that is consistent with the overall needs of the community in a location that is reasonably suitable for the purpose."

- It is close to a huge shopping and business "Power Center" and will provide a convenient place to stay to enjoy the shopping or be able to stay close to the airport. It will be a first class place to stay.
- It is only 25 minutes drive from downtown Ashland and the Oregon Shakespearean Festival and about 25 minutes drive from Historic Jacksonville and the Britt Music Festival.

NOISE

The area is in a mixed use area with a large church down on Owens Drive, a 58 unit apartment about one block west, many single family homes and some duplexes and four plexes surround the area. It is a really stable, nice, fairly quiet neighborhood in an urban area and yet very close to many stores and businesses. The area is well maintained and people feel safe and enjoy walking in the mornings and evenings.

LIGHTING GLARE

We propose no outdoor lighting other than the existing porches and doors.

NEIGHBORHOOD VISIBILITY

There will be no activity conducted outdoors so neighbors will only see the occasional guests coming and going.

TRAFFIC

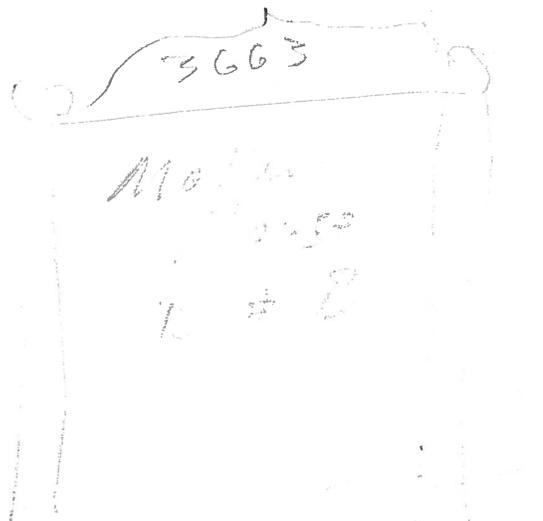
We mostly anticipate occasional cars being at the Bed and Breakfast. There is no activity at the bed and breakfast except sleeping and resting and relaxing. Most guests will have a full schedule either continuing their travels after a nights rest or going to Shakespeare or the Britt Festivals or shopping.

PARKING

It is difficult to know how much business our facility will attract. Hopefully enough customers two or three days a week to make it feasible. Our paved parking spots are accessed off of Dragon Tail. There are two paved parking spots in front of the attached double garage, and there are two paved spots on the west side of the garage. We may make available one spot in the garage also. Our kids are gone away and my wife works out of town and only comes over occasionally. I also have parking for some of our vehicles at my office on Delta Waters road.

SIGNS

I propose a sign consistent with the standards of the sign ordinance of the Land Development Code; not to exceed 6 square feet.





Continuous Improvement Customer Service

CITY OF MEDFORD

LD Date: 12/14/2016
File Number: CUP-16-139

PUBLIC WORKS DEPARTMENT STAFF REPORT **Mallard House B & B** **3663 Mallard Lane**

- Project:** Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast.
- Location:** Located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101).
- Applicant:** Robert S. Forrest, Applicant. Dustin Severs, Planner.
-

Public Works Department comments:

Additional use of the on-street parking would be expected for this use and we are concerned about people potentially parking along the curb extensions at the intersection. Public works does not typically sign these areas because State Law already prohibits parking there and it is fairly obvious given that a car parked in this area would be blocking the travel lane. Rather than signing the area, the owner/operator of the Bed & Breakfast should monitor their guests to ensure that visitors, who may not be familiar with local laws, do not park along the curb extensions.

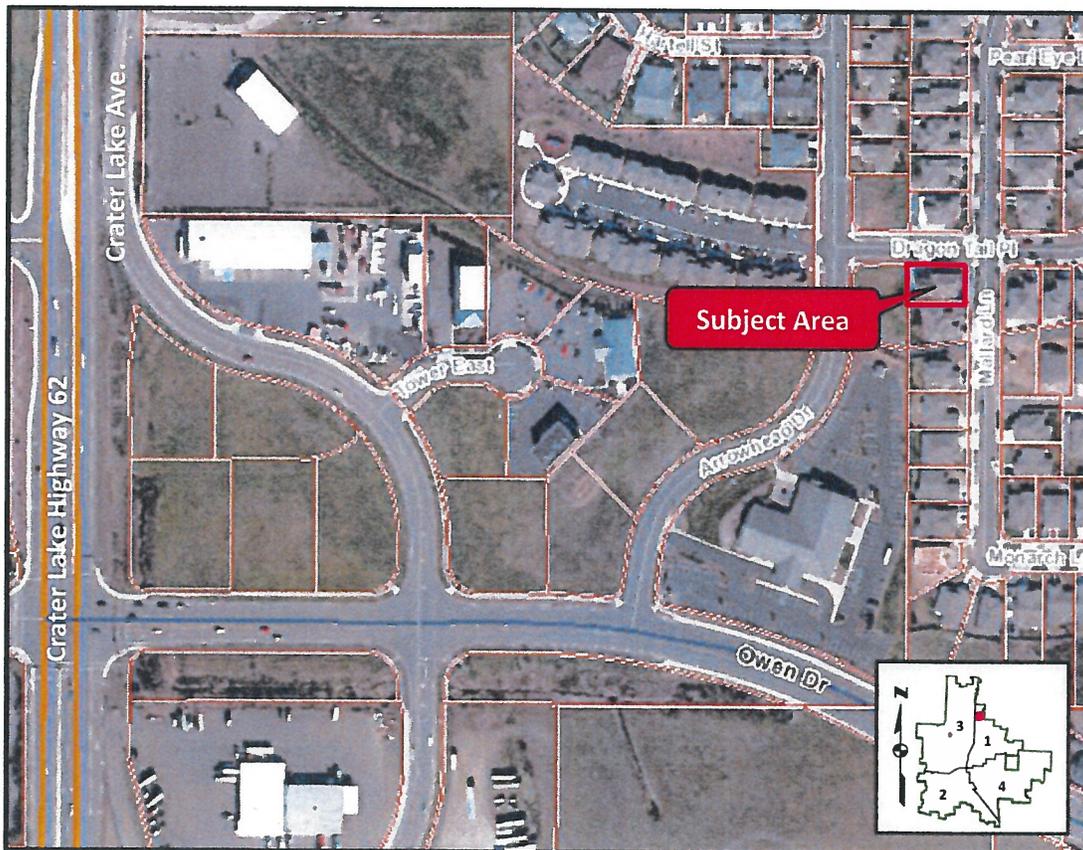
Prepared by: Doug Burroughs

Executive Summary

Consideration of an appeal of the Planning Commission approval of a Conditional Use Permit for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district. The appellant contends that the Planning Commission erred in its decision to allow a maximum of six guests in lieu of the 10 guests the applicant requested. (File No. CUP-16-139)

Dated: February 23, 2017

Vicinity Map



What are the issues before the City Council?

Did the Planning Commission err in its decision to allow a maximum of six guests in lieu of the 10 guests the applicant requested? (Notice of Appeal, Exhibit 1)

City Council Scope of Review

The City Council's scope of review is listed in Medford Land Development Code Section 10.053 and is summarized below.

Upon review, the City Council:

- *Shall not re-examine issues of fact, and*
- *Shall limit its review to determining:*
 - *Whether there is substantial evidence to support the findings of the tribunal which heard the matter, or*
 - *If errors in law were committed by such tribunal.*
- *Review shall be limited to those issues set forth in the notice of appeal.*
- *Review shall be based on the record of the initial proceedings.*

Chronology

1. On November 1, 2016, Robert Forrest and Ninthorn Buaklang (Applicants) submitted a Conditional Use Permit application to establish a bed and breakfast service (B&B) at 3663 Mallard Lane. The subject site is the applicant's residence and is located on the southwesterly corner of Mallard Lane and Dragon Tail Place (file no. CUP-16-139).
2. On November 22, 2016, the application was deemed complete. The 120th day is March 22, 2017.
3. The public hearing was scheduled for January 12, 2017. Public hearing notices were not sent because of a staff error. The item was properly noticed for the Planning Commission meeting of January 26, 2017. Staff requested that the Planning Commission adopt the final order immediately following the public hearing to avoid running afoul of the 120 day rule.
4. On January 26, 2017, the Planning Commission held a public hearing on CUP-16-139. The Commission heard the staff report and received written testimony from a neighboring property owner. The applicant, Mr. Forrest, attended the meeting but did not testify. The Commission voted to adopt the Final Order conditionally approving CUP-16-139. The motion to approve limited the occupancy of the B&B to six.
5. On January 31, 2017, the action letter was mailed, setting the final appeal date of February 14, 2017.
6. On February 7, 2017, the City received an appeal on the decision to approve the Conditional Use Permit application CUP-16-139 from Robert Forrest & Ninthorn Buaklang (Applicants, now Appellants) (Exhibit 1). Appellant has standing in this matter.
7. Per Medford Land Development Code Section 10.052, the appeal hearing before the City Council must be set at its next regular meeting that falls not less than 14 days after

the date the appeal is filed. The appeal hearing date was scheduled as required for March 2, 2017. The 120th day is March 22, 2017.

Medford Land Development Code Criteria

The applicable approval criteria are found in Medford Land Development Code (MLDC) Section 10.248, Conditional Use Permit Criteria.

The approving authority (Planning Commission) must determine that the development proposal complies with either of the following criteria before approval can be granted.

- (1) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.*
- (2) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the approving authority (Planning Commission) to produce a balance between the conflicting interests.*

In authorizing a conditional use permit the approving authority (Planning Commission) may impose any of the following conditions:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.*
- (2) Establish a special yard or other open space or lot area or dimension requirement.*
- (3) Limit the height, size, or location of a building or other structure.*
- (4) Designate the size, number, location, or nature of vehicle access points.*
- (5) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.*
- (6) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading area.*
- (7) Limit or otherwise designate the number, size, location, height, or lighting of signs.*
- (8) Limit the location and intensity of outdoor lighting, or require its shielding.*
- (9) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.*
- (10) Designate the size, height, location, or materials for a fence.*
- (11) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.*

Project Summary

The subject request involves a 0.14 acre residential lot developed with a two-story, 2,938 square foot single-family home along with an attached two-car garage. The applicants, who constructed the home in 2001, propose to use two bedrooms and two bathrooms as a B&B for overnight lodging and breakfast for guests. The applicants' narrative explains that the applicants will be the proprietors of the business and will continue to live at the residence.

Parking for guests will be provided in the paved driveway. The applicants will continue to use the garage for the required parking for the single family residence.

Special Use Standards

B&B's are permitted in the subject SFR-6 zone district subject to the approval of a Conditional Use Permit and the special use standards contained in MLDC 10.828, Bed and Breakfast Service. The language at MLDC 10.828(1)(c) is at issue in this appeal.

The intent is to provide temporary travelers' accommodations and breakfast in a single family residence for a fee, on a daily or weekly room rental basis, not to exceed fourteen (14) consecutive days.

(1) Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

(d) Two (2) on-premise signs may be approved by the approving agency (Planning Commission) provided that each sign is compatible with residential uses and is not more than six (6) square feet in size and not exceeding an overall height of six (6) feet.

(e) All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

Notice of Appeal

A single Notice of Appeal was filed on February 7, 2017, which is within 14 days of the date the notice of the Planning Commission action was mailed as required in MLDC 10.051.

Allegations of Error

A single allegation of error is identified in the appeal (Exhibit 1).

Most of the information and arguments contained in the appeal were not presented to the Planning Commission. Under MLDC 10.053, the City Council's review is based on the record of the initial proceedings. New information, arguments or evidence may not be considered.

1. The Appellant contends, *"The record shows that our application for the Mallard House B&B specifically asked for up to 10 people at any one time. The Planning Commission approved our application but changed the number of people we want to have approved from 10 people to six people...We contend that the Planning Commission erred in not granting us the requested maximum number of guests to be 10."*

Staff Response:

Beginning on Page 4 of the Commission Report dated January 26, 2017, there is an analysis of each of the special use standards for B&B's contained in MLDC 10.828 (Exhibit 2). At issue is the standard at 10.828(1)(c):

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

This subsection requires annual health and sanitation inspections by Jackson County; however, the analysis of 10.828(1)(e) states that Jackson County rules exempt B&B establishments from annual inspections for sanitation standard compliance when offering fewer than three rooms for rent.

On December 23, 2016, the Appellant submitted an e-mail reducing the number of rooms for the B&B from four to two (Exhibit L to Exhibit 2). The request describes the requirements of the Health Authority of Oregon and the Jackson County branch as "formidable to accomplish in the

short run.” The Appellant did not offer any evidence that the necessary health and sanitation facilities would be or would continue to be provided to any particular level of service.

The Planning Commission has authority to determine the number of guests (*“The number of guests shall generally be limited to six persons at any one time...”*). The special use standard requires Jackson County inspection; however, the record showed that the two guest room facility is exempt from Jackson County inspection. The Commission did not err in its decision because there is no mechanism in place to ensure continued provision of health and sanitation facilities.

Summary

The Planning Commission found that application met the approval criterion found in MLDC 10.248(1) and limited the number of guests to six as provided in 10.828(1)(c). Based on the analysis of the record provided above, the Appellant did not provide sufficient persuasive evidence to support approval of the application with a maximum of 10 guests.

City Council Options

The City Council will need to determine if there is substantial evidence in the record to support the decision of the Planning Commission. The options are:

1. If the Council finds that there is substantial evidence in the record to conclude that the Planning Commission decision was correct and that the evidence in the record supports the Commission’s findings, then the Council should affirm the decision.
2. If the Council finds that the evidence in the record supports the Appellant's contention that the decision was in error or that there is not substantial evidence to support the decision, then based upon substantial evidence in the record the City Council should:
 - a. Reverse the decision. If the Council does this, the Council must specify the reasons for reversal; or
 - b. Modify the decision and specify the reasons for such modification; or
 - c. Remand the decision back to the Planning Commission with an explanation of the error and the action necessary to rectify the error. Given the constraints of the 120-day rule, this is not an option unless the Appellant concurs and agrees to extend the 120-day limit.

Recommendation

There is a single question before the Council: Did the Planning Commission err in its decision to approve the Conditional Use Permit and limit the number of B&B guests to six?

The City Council can find that the Planning Commission did not err in its decision to because no legal error was committed and there is sufficient evidence in the record to support the Planning Commission decision to approve the Conditional Use Permit application and limit the number of guests to six.

- With regard to the special use standard MLDC 10.828(1)(c), staff recommends that the City Council find that the Planning Commission has the authority to determine the number of guests. The application is exempt from the required Jackson County health and sanitation inspections and the Appellant did not provide sufficient information to support the request.

EXHIBITS

- 1 Notice of Appeal received February 7, 2017
- 2 Planning Commission Final Order and Planning Commission Report dated January 26, 2017, with all exhibits
- 3 Excerpts from the Planning Commission Minutes of January 26, 2017
- 4 PowerPoint Presentation to the Planning Commission dated April 28, 2016
- 5 Action Letter dated January 31, 2017



BOARD OF WATER COMMISSIONERS

Staff Memo

TO: Planning Department, City of Medford

FROM: Rodney Grehn P.E., Water Commission Staff Engineer

SUBJECT: CUP-16-139

PARCEL ID: 371W08BD TL 2101

PROJECT: Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101); Robert S. Forrest, Applicant. Dustin Severs, Planner.

DATE: December 17, 2016

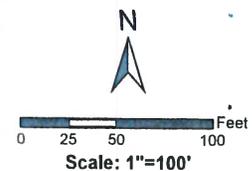
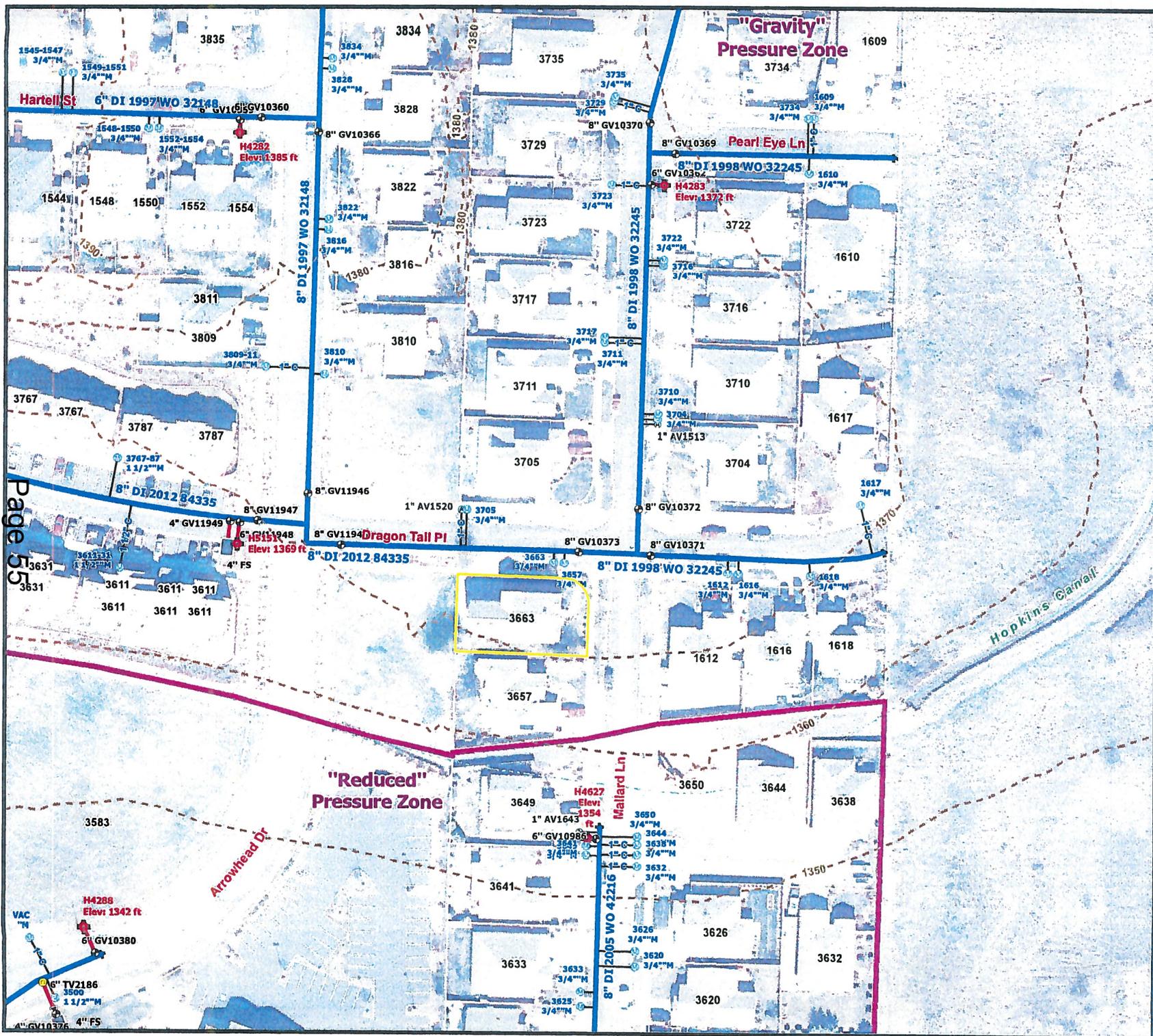
I have reviewed the above plan authorization application as requested. Conditions for approval and comments are as follows:

CONDITIONS

1. The water facility planning/design/construction process will be done in accordance with the Medford Water Commission (MWC) "Regulations Governing Water Service" and "Standards For Water Facilities/Fire Protection Systems/Backflow Prevention Devices."
2. All parcels/lots of proposed property divisions will be required to have metered water service prior to recordation of final map, unless otherwise arranged with MWC.
3. Static water pressure at this existing building is approximately 100 psi. Installation of a Pressure Reducing Valve is required when public water supply service pressure is over 80 psi, if not already installed when the home was constructed. See attached document from the City of Medford Building Department on "Policy on Installation of Pressure Reducing Valves".

COMMENTS

1. Off-site water line installation is not required.
2. On-site water facility construction is not required.
3. Nearest fire hydrant is located near the northeast property corner.
4. MWC-metered water service does exist to this property. There is an existing ¾-inch water meter with a 1-inch copper service line from the water main to the water meter location.
5. Access to MWC water lines is available. There is an existing 8-inch water line in Dragon Tail Place.



Water Facility Map for CUP-16-139

Legend

- Air Valve
- Sample Station
- Fire Service
- Hydrant
- Reducer
- Blow Off
- Plugs-Caps

Water Meters:

- Active Meter
- On Well
- Unknown
- Vacant

Water Valves:

- Butterfly Valve
- Gate Valve
- Tapping Valve

Water Mains:

- Active Main
- Abandoned Main
- Reservoir Drain Pipe
- Pressure Zone Line

Boundaries:

- Urban Growth Boundary
- City Limits
- Tax Lots

MWC Facilities:

- Control Station
- Pump Station
- Reservoir



This map is based on a digital orthophoto supplied by Medford Water Commission from a 2014 aerial survey. Medford Water Commission assumes no liability for errors, omissions, or outdated information. There are no warranties, expressed or implied.
 Date: 12/18/2018
 Path: G:\GIS\Ortho MWC Map - MWC 2014 - 100m L5.mxd

Page 35



Medford Fire Department

200 S. Ivy Street, Room #180
Medford, OR 97501
Phone: 774-2300; Fax: 541-774-2514;
www.medfordfirerescue.org

LAND DEVELOPMENT REPORT - PLANNING

To: Dustin Severs

LD Meeting Date: 12/14/2016

From: Greg Kleinberg

Report Prepared: 12/07/2016

Applicant: Robert S. Forrest, Applicant. Dustin Severs, Planner.

File #: CUP - 16 - 139

Site Name/Description:

Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential - 6 dwelling units per gross acre) zoning district (371W08BD TL 2101); Robert S. Forrest, Applicant. Dustin Severs, Planner.

DESCRIPTION OF CORRECTIONS	REFERENCE
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Requirement	ADDITIONAL REQUIREMENTS/COMMENTS	MEDFORD	OTHER
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1. This home was built in 2001 when smoke alarms were required to be interconnected and located in every sleeping room, in the hall leading to sleeping rooms, and on every floor. The design life of smoke alarms is 10 years. If the smoke alarms are older than 10 years they must be replaced. Ensure the smoke alarms are compliant before leasing. (ORS 479.250-479.300)

2. Carbon monoxide alarm(s) are required (ORS 90.316; OAR 837.047)

Development shall comply with access and water supply requirements in accordance with the Fire Code in affect at the time of development submittal.

Fire apparatus access roads are required to be installed prior to the time of construction. The approved water supply for fire protection (hydrants) is required to be installed prior to construction when combustible material arrives at the site.

Specific fire protection systems may be required in accordance with the Oregon Fire Code.

This plan review shall not prevent the correction of errors or violations that are found to exist during construction. This plan review is based on the information provided only.

Design and installation shall meet the Oregon requirements of the IBC, IFC, IMC and NFPA standards.

Dustin J. Severs

From: CAINES Jeff <Jeff.CAINES@aviation.state.or.us>
Sent: Friday, December 09, 2016 12:43 PM
To: Dustin J. Severs
Subject: CUP-16-139 - ODA Comment

Dustin:

Thank you for allowing ODA to review the proposed Bed & Breakfast located at 3663 Mallard Land (CUP-16-139). ODA has reviewed the proposed project and have the following comment:

Since the residential structure is already constructed and there is other residential development surrounding the site; ODA determines that the proposed use will not cause a hazard to air navigation. Therefore no FAA from 7460-1 will be required.

Thank you again. Please feel free to contact me if you or the applicant have any questions.

Jeff

Jeff Caines, AICP
Oregon Department of Aviation
Aviation Planner / SCIP Coordinator
3040 25th St. SE | Salem, OR 97302
Office: [503.378.2529](tel:503.378.2529)
Cell / Text: [503.507.6965](tel:503.507.6965)
Email: Jeff.Caines@aviation.state.or.us

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.



Memo

To: Dustin Severs, Planning Department
From: Mary Montague, Building Department
CC: Mallard House B&B, Agent
Date: December 14, 2016
Re: CUP-16-139; Mallard House B&B

Building Department:

Please Note: This is not a plan review. These are general notes based on general information provided. Plans need to be submitted and will be reviewed by a residential plans examiner to determine if there are any other requirements for this occupancy type. Please contact the front counter for fees.

1. Applicable Building Codes are 2014 ORSC with additional Oregon amendments to the 2011 ORSC; 2014 OPSC; and 2014 OMSC. For list of applicable Building Codes, please visit the City of Medford website: www.ci.medford.or.us Click on "City Departments" at top of screen; click on "Building"; click on "Design Criteria" on left side of screen and select the appropriate design criteria.
2. All plans are to be submitted electronically. Information on the website: www.ci.medford.or.us Go to "City Departments" at top of screen; click on "Building"; click on "ELECTRONIC PLAN REVIEW (ePlans)" for information.
3. Obtain application and follow Oregon Health Authority guidelines.
4. Not more than 10 persons and not more than 5 guest rooms. R101 (1.3).

Dustin J. Severs

From: Bob Forrest <forrestb@bobforrestloans.com>
Sent: Wednesday, December 14, 2016 12:37 PM
To: Dustin J. Severs
Subject: Bob Forrest B &B Mallard House

Hi Dustin, It was nice to meet you today and thanks for the help.

As we discussed I would like the number of people that we can rent to at one time to be as high as possible. So I would ask for 10 people limit if that is the highest number allowed. Thanks. Bob Forrest

File # CUP 16-139

Dustin J. Severs

From: Bob Forrest <forrestb@bobforrestloans.com>
Sent: Friday, December 23, 2016 10:12 AM
To: Dustin J. Severs
Subject: bob Forrest adjusts B & B application

Hi Dustin, Like I said on the telephone yesterday, I want to only apply for two rooms for my B & B at Mallard Lane instead of applying for four rooms.

The requirements of the Healthy Authority of Oregon and the Jackson County branch are going to be to formidable for me to accomplish in the short run.

Please modify my B&B application for 3663 Mallard Lane accordingly.

By the way I was putting out my garbage yesterday at Mallard Lane and I glanced at my Conditional Use Permit sign and realized that it shows the date of the Public Hearing for my B & B. I knew I had seen it somewhere but I couldn't find it on any of the documents presently in my file.

Best regards, Robert S. Forrest

William S. and Judy A. Merrihew
3716 Mallard Lane
Medford, OT 97504
18 January 2017

RECEIVED
JAN 19 2017
PLANNING DEPT.

Dear Medford Planning Department:
Ref File CUP-16-139
Dustin Severs

Other than thinking its an unusual place for a B&B we have no objections to the proposed Bed and Breakfast located at 3663 Mallard Lane in the SFR-6 zoning district 371W088D TL 2101.

We do wonder what our recourse is if the Planning Department's assertion that there is no significant adverse impact on the value of abutting property is incorrect?

Sincerely,


William S. Merrihew

CITY OF MEDFORD
EXHIBIT # M
File # CUP-16-139



City of Medford
Planning Department

Vicinity
 Map

File Number:
CUP-16-139



Project Name:

Mallard House B & B

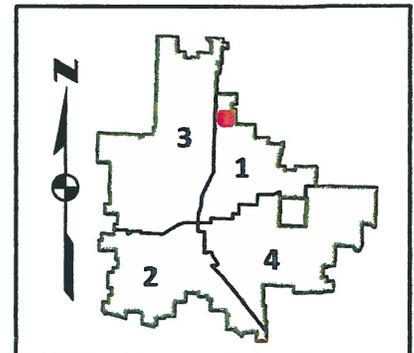
Map/Taxlot:

371W08BD TL 2101



Legend

-  Subject Area
-  Medford Zoning
-  Tax Lots
-  Streets



01/19/2017



Planning Commission

Minutes

From Public Hearing on **January 26, 2017**

The regular meeting of the Planning Commission was called to order at 5:35 PM in the City Hall Council Chambers on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
Mark McKechnie

Staff Present

Matt Brinkley, Planning Director
Kelly Akin, Principal Planner
Kevin McConnell, Deputy City Attorney
Alex Georgevitch, City Engineer
Terri Rozzana, Recording Secretary
Carla Paladino, Planner IV
Dustin Severs, Planner II

Commissioner Absent

Jared Pulver, Excused Absence

10. Roll Call

TAKEN OUT OF ORDER

40. Oral and Written Requests and Communications.

Trina Helfrich, Eads Investments, 853 S. Riverside, Medford, Oregon, 97501, spoke to Agenda Item 20.2. Ms. Helfrich reported that she submitted a letter to the Planning Commission dated December 7, 2016 requesting a reconsideration of the permitted uses in their zoning. After some review and reading the minutes from the study session on Monday, January 9, 2017, she would like to request the Planning Commission to consider conditional use for her area. Their location off of Riverside is not surrounded by any residential properties nor are they in a retail commercial area. They butt up against the freeway and on each side of them are warehouses.

20. Consent Calendar/Written Communications.

20.1 CUP-16-084 Final Order for a Conditional Use Permit application to allow a new wireless communications facility consisting of a 106-foot support structure and associated equipment cabinets used for communication systems. The subject site is located at the southwest corner of the future intersection of Owen Drive alignment with the McLoughlin Drive alignment, at the northeast property corner of 371W08 Tax Lot 1102. (Verizon Wireless, Applicant; Paul Slotemaker, Agent)

CITY OF MEDFORD
EXHIBIT # 3
File # CUP-16-139
Appraisal

Kevin McConnell, Deputy City Attorney, read the Quasi-Judicial Statement.

40. Public Hearings – **Continuance Request**

50.1 LDS-16-152 Consideration of Lilybrook, a 14 lot residential subdivision on a 1.64 acre parcel located at the northeast corner of Agate Street and Hart Avenue, within an SFR-10 (Single-Family Residential, ten dwelling units per acre) zoning district (382W01AB700). (Clyde Akins, Applicant; CSA Planning, Ltd., Mike Savage, Agent). **The applicant has requested to continue this item until the March 9, 2017, Planning Commission meeting.**

Chair Miranda stated that if there were members in the audience that have come to testify on this agenda item and cannot attend the Thursday, March 9, 2017, Planning Commission hearing, please come forward and the Planning Commission will hear their testimony at this time. Please keep in mind that it is possible that your questions may be answered when staff presents their staff report on Thursday, March 9, 2017. There will be no decisions made this evening on this agenda item.

The public hearing was opened and there being no testimony the public hearing was closed.

Motion: The Planning Commission continued LDS-16-152, per the applicant's request to the March 9, 2017, Planning Commission meeting.

Moved by: Commissioner Mansfield

Seconded by: Commissioner McKechnie

Roll Call Vote: Motion passed, 6-0.



50.2 CUP-16-139 Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101). (Robert Forrest & Ninthorn Buaklang, Applicants/Agent)

Chair Miranda inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. None were disclosed.

Chair Miranda inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Dustin Severs, Planner II, stated that staff received a letter. A copy was forwarded to the Planning Commission. The letter will be submitted into the record as Exhibit M. Mr. Severs read the conditional use permit criteria and gave a staff report.

Vice Chair McFadden asked if the applicant has determined a location for the sign? Mr. Severs reported that the narrative does not state a location for the sign. He believes it

will go on the corner of Dragon Tail and Mallard. Mr. Severs deferred the question to the applicant.

Commissioner McKechnie asked, in case of a sale, what happens to the conditional use permit? Mr. Severs stated that he would defer the question to Kelly Akin.

Kelly Akin, Principal Planner, reported that conditional use permit would run with the land.

Commissioner McKechnie stated that his understanding is when there is a driveway with a garage that the area in front of the garage cannot be counted as parking spaces because that is the access to the parking space in back. Where are the other two parking spaces?

Ms. Akin stated that the code was changed last fall to allow the parking in the driveway to count as required parking. It is permissible as proposed.

The public hearing was opened.

The applicant did not feel it was necessary to speak.

Vice Chair McFadden stated that it is not unusual to have a large house on a postage stamp lot. Single family dwellings do not necessarily get reviewed by the Site Plan and Architectural Commission or the Planning Commission. He is assuming that staff has done all the calculations for the percentage of lot coverage and reviewed the requirements that the house was built to standard. Mr. Severs reported that it did meet all the requirements for a legal nonconforming structure.

Commissioner Mansfield disclosed that in many years past he has enjoyed the friendship with Mr. Forrest. He has not talked to him in many years. He does not feel this is a conflict of interest.

The public hearing was closed.

Motion: The Planning Commission adopts the findings as recommended by staff and adopts the Final Order for approval of CUP-16-139 per the staff report dated January 19, 2017, including Exhibits A through M.

Moved by: Vice Chair McFadden

Seconded by: Commissioner McKechnie

Friendly Amendment made by Commissioner Foley: The Planning Commission does not allow additional occupancy above six (6).

Roll Call Vote: Motion passed, 6-0.

Mallard House Bed & Breakfast
CUP-16-139



January 26, 2017
Planning Commission

CONDITIONAL USE PERMIT CRITERIA
MLDC 10.248

In order to approve the conditional use permit, the Planning Commission must find that the proposal complies with one of the following criteria:

CITY OF MEDFORD
EXHIBIT # 4
File # CUP-16-139
Appeal

CONDITIONAL USE PERMIT CRITERIA
MLDC 10.248

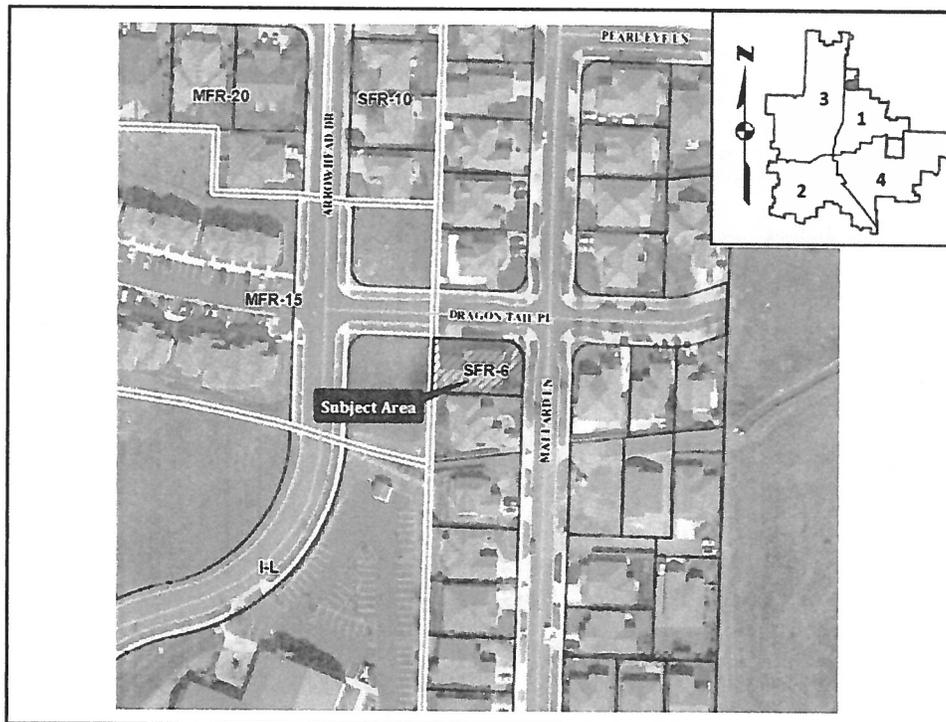
1. The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.

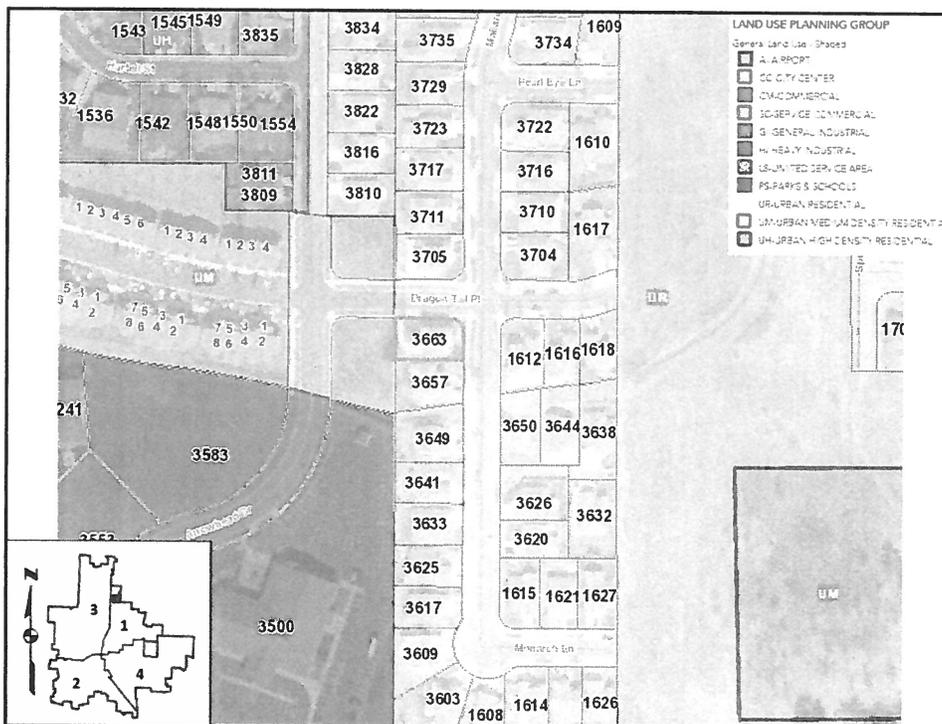
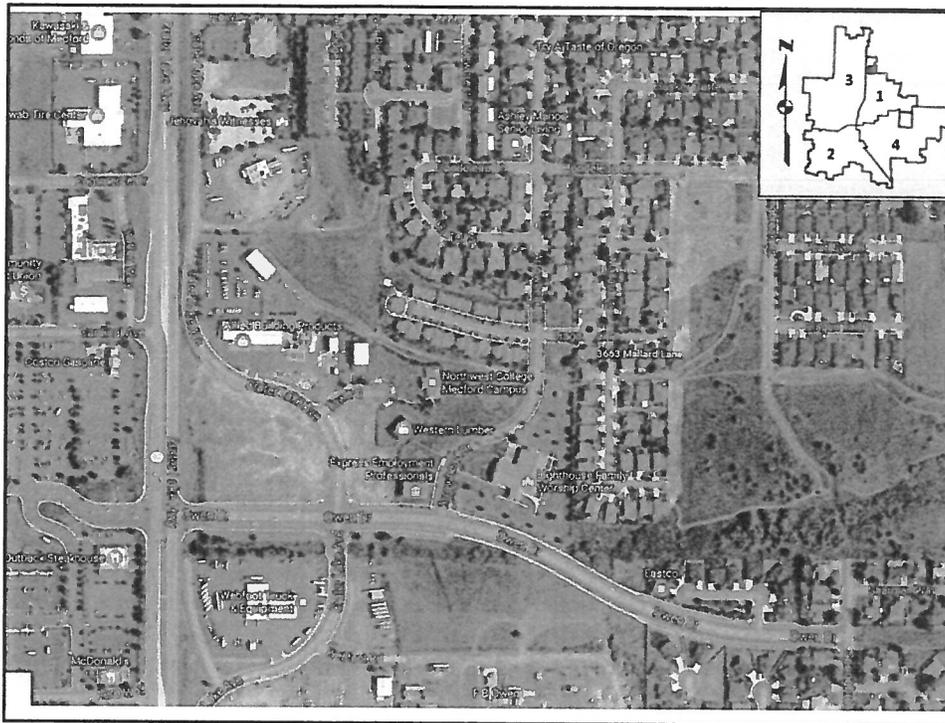
CONDITIONAL USE PERMIT CRITERIA
MLDC 10.248

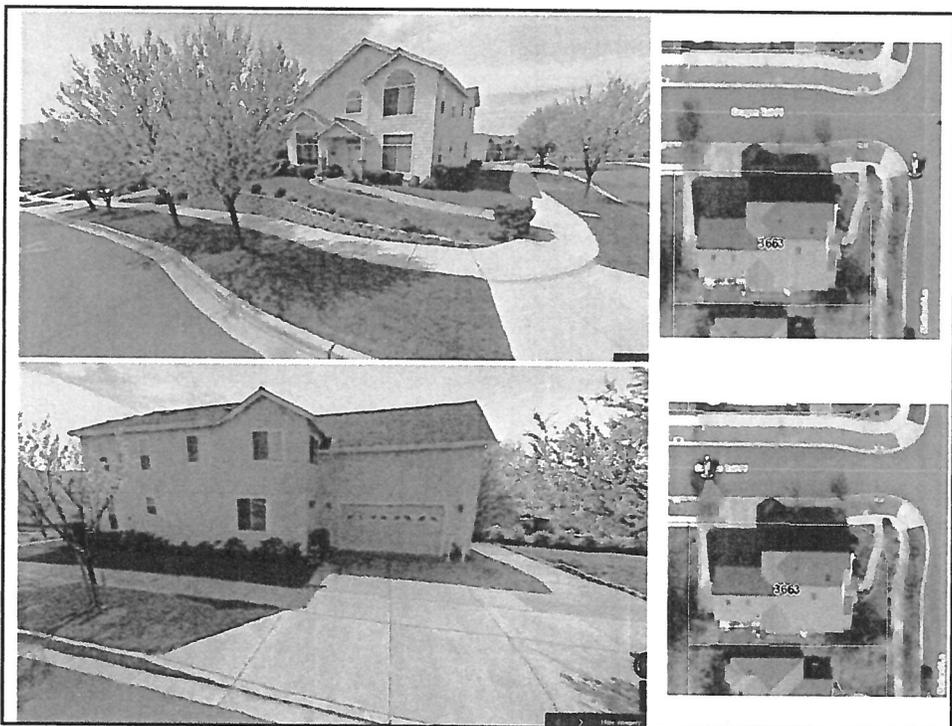
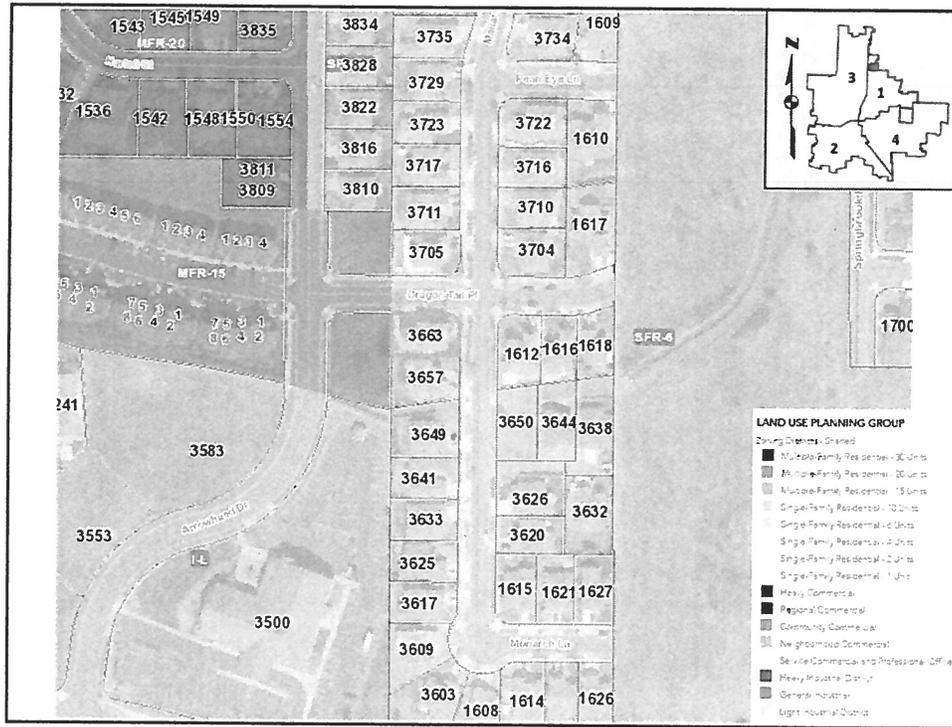
2. The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the Planning Commission to produce a balance between the conflicting interests.

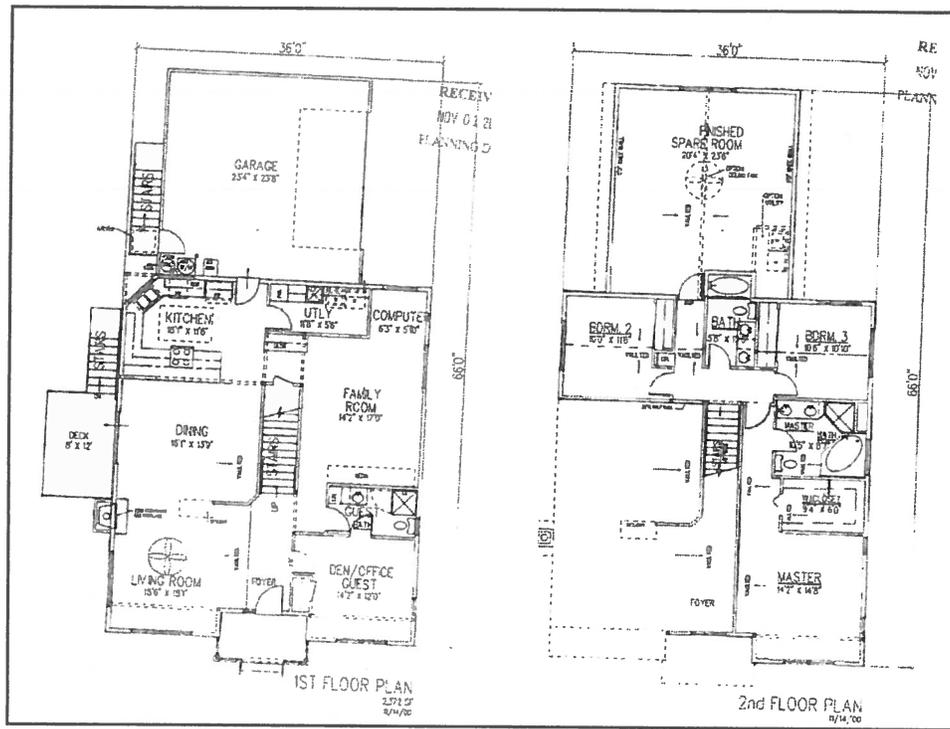
Project Summary

- The subject site consists of a single tax lot totaling 0.14 acres.
- GLUP: UR Urban Residential
- Zoning: SFR-6 Single-Family Residential – 6 dwelling unit/gross acre
- Overlay(s): Airport Area of Concern (A-C)
- Current Use: Single-family residence
- Proposal: Request for a Conditional Use Permit (CUP) to use two rooms of the residence for a Bed & Breakfast establishment for overnight lodging and breakfast for guests.









MLDC 10.313 – Bed and Breakfasts

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS		SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section
(a)	Bed and Breakfast Inn	X	X	Cs	Cs	Cs	Ps	Ps	Ps	10.828

MLDC 10.823 - Special Use Requirements

(1)Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.



MLDC 10.823 - Special Use Requirements

(1) Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.



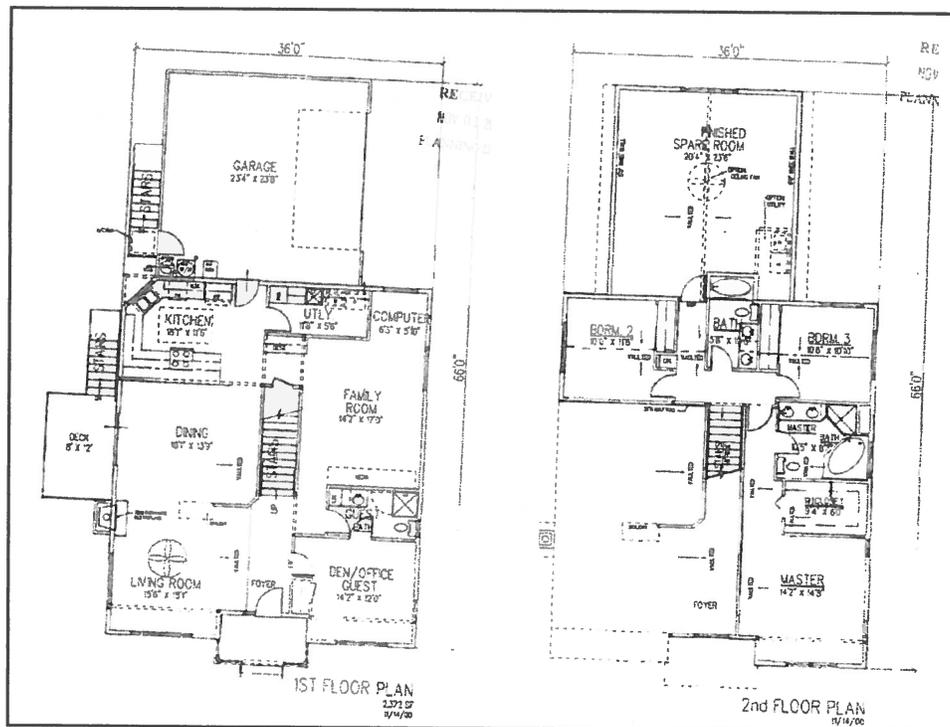
MLDC 10.823 - Special Use Requirements

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(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.



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(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

(d) Two (2) on-premise signs may be approved by the approving agency (Planning Commission) provided that each sign is compatible with residential uses and is not more than six (6) square feet in size and not exceeding an overall height of six (6) feet.

SIGNS

I propose a sign consistent with the standards of the sign ordinance of the Land Development Code; not to exceed 6 square feet.



MLDC 10.823 - Special Use Requirements

(1) Standards.

(a) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(b) Off street parking shall be provided. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened, not visible from the street, and found to be compatible with the neighborhood.

(c) The number of guests shall generally be limited to six persons at any one time, except where sanitation facilities and neighborhood standards would otherwise allow more. Health and sanitation facilities shall be inspected annually by Jackson County.

(d) Two (2) on-premise signs may be approved by the approving agency (Planning Commission) provided that each sign is compatible with residential uses and is not more than six (6) square feet in size and not exceeding an overall height of six (6) feet.

(e) All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.



JACKSON COUNTY
Health & Human Services

Exempt – less than 3 rooms

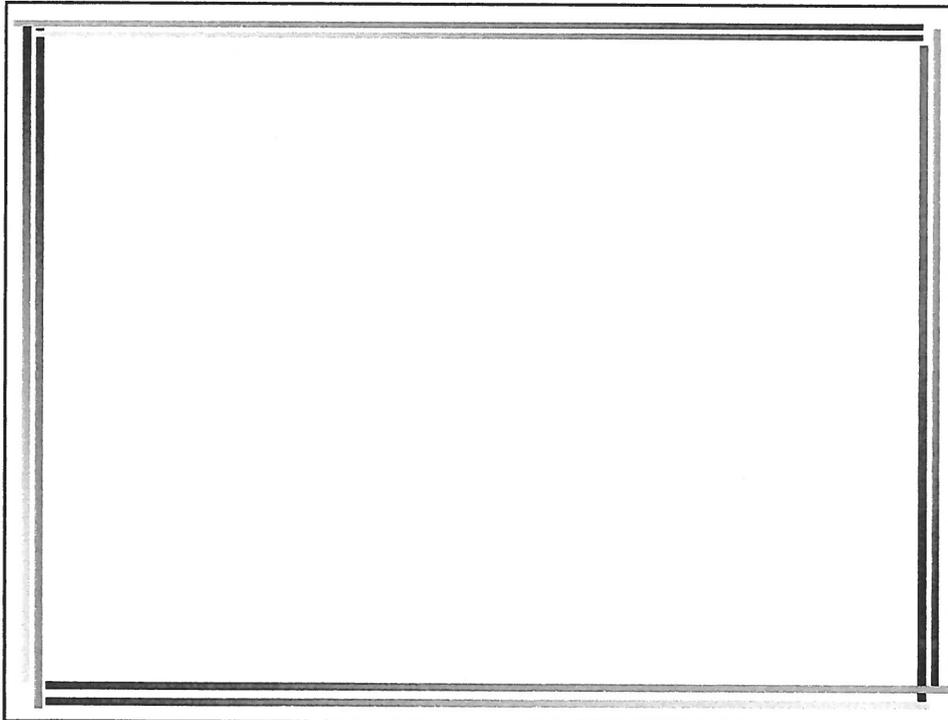
RECOMMENDED ACTION

Adopt the findings as recommended by staff and adopt the Final Order of approval for CUP-16-139, including all exhibits.

**QUESTIONS
FOR STAFF?**

RECOMMENDED MOTION

**MOVE TO ADOPT THE FINDINGS AS
RECOMMENDED BY STAFF AND ADOPT THE
FINAL ORDER OF APPROVAL
FOR CUP-16-139
PER THE STAFF REPORT
DATED JANUARY 19, 2017, INCLUDING
EXHIBITS A-M.**





Working with the community to shape a vibrant and exceptional city

Robert S. Forrest & Ninthorn Buaklang
3663 Mallard Lane
Medford, OR 97504

Decision date: January 26 2017
Mailing date: January 31, 2017
Final appeal Date: **February 14, 2017**
File no. CUP-16-139

Notice of Planning Commission Action

The Medford Planning Commission adopted a final order approving the following application:

Consideration of a request for a Conditional Use Permit (CUP) for a proposed Bed & Breakfast to be located at 3663 Mallard Lane in the SFR-6 (Single-Family Residential – 6 dwelling units per gross acre) zoning district (371W08BD TL 2101).

The approval is based on the findings and subject to the conditions and time periods set forth in the Planning Commission Report dated January 26, 2017.

The final date for filing an appeal is 14 days from the date the notice of decision is mailed. The written appeal and filing fee must be received by the City Recorder no later than 5:00 PM on the final appeal date shown above. Appeals must be filed in the form prescribed, and will be decided based on Sections 10.051–10.056 of the Municipal Code.

The applicant is authorized to begin operation of the use in compliance with the conditions of approval in the Planning Commission report. **In accordance with Medford Land Development Code Section 10.250, unless substantial construction on the development is completed, the use has commenced operation or a written request for extension is submitted to the Planning Department prior to the expiration date, the approval will expire in one year (January 26, 2018).**

Sincerely,

Matt Brinkley, AICP
Planning Director

Enc. Final Order / Planning Commission Report
Cc: Affected Agencies
Interested Parties

MB/tlr

CITY OF MEDFORD
EXHIBIT # 5
File # CUP-16-139
APPEAL